



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## LOK SABHA

The following Bills were introduced in Lok Sabha on 11th March, 2016:—

### BILL No. 251 OF 2015

*A Bill to provide for the constitution of an Artisans Welfare Board for the welfare of the artisans living in the rural areas and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Artisans (Welfare) Act, 2015.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

- (a) "Board" means the Artisans Welfare Board established under section 3;
- (b) "artisan" means any person engaged in handicraft manufacturing in rural areas for earning his livelihood;
- (c) "Fund" means the Artisan Welfare Fund constituted under section 5; and
- (d) "prescribed" means prescribed by rules made under this Act.

Establishment  
of Artisans  
Welfare  
Board.

**3.** (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Artisans Welfare Board for the purposes of this Act.

(2) The Board shall consist of a Chairperson and such other members to be appointed by the Central Government in such manner as may be prescribed.

(3) The headquarter of the Board shall be at New Delhi.

(4) The salary and allowances payable to, and other terms and conditions of service of Chairperson and members shall be such as may be prescribed.

Functions of  
the Board.

**4.** The Board shall—

- (a) carry out studies, from time to time, about various artworks and traditional art practices carried out in rural areas;
- (b) set up art centres to increase employment opportunities for artisans and preserve art and craft heritage;
- (c) provide better tools, technologies and designs to artisans;
- (d) take steps to develop entrepreneurship among artisans;
- (e) expand market facilities to get fair price of artwork to artisans and organise regular art exhibitions and art markets;
- (f) facilitate online portal of art work collections to enable artisans to avail better prices for their art products; and
- (g) undertake such other tasks as may be assigned to it by the Central Government for carrying out the purposes of the Act.

Constitution  
of Artisan  
Welfare Fund.

**5.** (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Artisan Welfare Fund for the purposes of this Act.

(2) The Central Government shall, after due appropriation made by Parliament by law in this behalf, credit adequate sums to the Fund.

(3) The Fund shall be administered by the Board for carrying out the purposes of this Act.

Power to  
make rules.

**6.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

In rural parts of India we find some sheer talented people who create extremely creative products through their art. But unfortunately due to unavailability of resources, low market exposure, lack of awareness, financial constraints and no institutionalization support, these artisans face a lot of trouble as they neither get fair price for their products nor they are able to showcase their artwork at a broader prospect.

The present Bill, therefore, seeks to provide institutional and financial support to artisans to improve their social status and to promote and revive India's traditional and cultural art in such a way that more employment and economic activities can be carried out.

Hence this Bill.

NEW DELHI;  
August 8, 2015.

SUSHIL KUMAR SINGH

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PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(3) OF THE CONSTITUTION

[Copy of letter No. 1/64/2015/Parl. dated 16 November, 2015 from Shri Santosh Kumar Gangwar, M.P., Minister of State of the Ministry of Textiles to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Artisans of India Bill, 2015 by Shri Sushil Kumar Singh, M.P., recommends the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute an Artisan Welfare Board. Clause 4 provides, *inter-alia*, for setting up of art centres and facilitating of online portal to enable artisans to avail a better price for their art products. Clause 5 provides for constitution of Artisan Welfare Fund by the Central Government. It also provides that the Central Government shall provide adequate sums to the Fund. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that annual recurring expenditure of about rupees hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers that Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 297 OF 2015

*A Bill to amend the Civil Liability for Nuclear Damage Act, 2010.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

- |   |  |
|---|--|
| <p><b>1.</b> (1) This Act may be called the Civil Liability for Nuclear Damage (Amendment) Act, 2015.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> | <p>Short title, extent and commencement.</p> |
| <p><b>2.</b> In the Civil Liability for Nuclear Damage Act, 2010 (hereinafter referred to as the principal Act), in section 35, the words "Save as otherwise provided in section 46," shall be omitted.</p>                                 | <p>Amendment of section 35.</p>              |
| <p><b>3.</b> In section 46 of the principal Act, for the words "from any proceeding", the words "from any criminal proceeding" shall be substituted.</p>  | <p>Amendment of section 46.</p>              |

## STATEMENT OF OBJECTS AND REASONS

Today India is one of the most important destinations for nuclear energy supply. With the given supply of the nuclear energy, we cannot deny the fact that the demand for the same has never been higher. But the present legislation *i.e.* the Civil Liability for Nuclear Damage Act, 2010 is argued to be out of line to the annex to the Convention of Supplementary Compensation for Nuclear Damage which has been signed by India on 27 October, 2010, but is yet to be ratified by it. Moreover the present working position has made it very costly for the suppliers even to the extent of being infeasible. The Bill, therefore, seeks to amend the Civil Liability for Nuclear Damage Act, 2010 with a view to reassert India's firm stand of liability of third party liability to any sub-standard supply with a little sense of relief to the operators.

Hence this Bill.

NEW DELHI;  
November 16, 2015.

HARISH CHANDRA MEENA

## BILL NO. 15 OF 2016

*A Bill to provide for access to judicial proceedings of the Supreme Court and its Benches by prescribing digital recording of all judicial proceedings and making them available online to the public in general to foster greater accountability and for the matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**1.** (1) This Act may be called the Right to Access of Judicial Proceedings and Information Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Application of the Act.

**2.** The provisions of this Act shall apply exclusively to the proceedings of the Supreme Court and its Benches.

Definitions.

**3.** In this Act, unless the context otherwise requires,—

(a) "audio-visual content" means the content containing both audio and video components and stored in a digital format;

(b) "judicial proceedings" means proceedings taking place before the Supreme Court or any of its Benches;

(c) "information" includes such information as may be obtained under the Right to Information Act, 2005;

22 of 2005.

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "Secretariat" means the Supreme Court Secretariat established under section 4.

## CHAPTER II

### ESTABLISHMENT OF THE SUPREME COURT SECRETARIAT FOR RECORDING, STORAGE AND ACCESS OF JUDICIAL PROCEEDINGS

Establishment of Secretariat.

**4.** (1) The Central Government shall, after consultation with the Chief Justice of India, by notification in the Official Gazette, establish a Secretariat to be known as the Supreme Court Secretariat for carrying out the purposes of this Act.

(2) The Secretariat shall work under overall supervision of the Chief Justice of India.

(3) The Central Government shall appoint such number of officers and employees to the Secretariat, as may be necessary, to ensure effective implementation of the provisions of this Act.

(4) The salary and allowances payable to and other terms and conditions of service of officers and employees of the Secretariat shall be such as may be prescribed.

Functions of the Secretariat.

**5.** The Secretariat shall—

(i) make audio-video recording of all judicial proceedings;

(ii) make audio-visual recording of such other information as may be prescribed;

(iii) upload on especially created website, the judicial proceedings and information referred to in clauses (i) and (ii);

(iv) maintain a database of all judicial proceedings and information;

(v) create a database of the audio-visual archives within twenty four hours of any hearing including the name of the judge, parties involved, date of hearing, chamber number, case number and case type,

to ensure easy access to the judicial proceedings and information.

Penalty.

**6.** Save as otherwise provided in section 7, whoever, responsible for uploading judicial proceedings or information, fails by way of negligence or omission, to upload the judicial proceedings or information, shall be suspended from the service immediately and an enquiry



Committee consisting of such officials as may be prescribed, shall be constituted to recommend appropriate action.

### CHAPTER III

#### REFUSAL OF RECORDING OR SHARING OF JUDICIAL PROCEEDINGS

22 of 2005.

**7. (1)** Save as otherwise provided in section 8 of the Right to Information Act, 2005, every citizen shall have the right to access to audio-visual contents of judicial proceedings and information.

Right to access to judicial proceedings.

(2) If during the course of a judicial proceeding, a judge of the Supreme Court feels that a particular proceeding should not be recorded or once recorded should not be shared with the public, the judge may direct the Secretariat not to record that judicial proceeding or withhold such recording from uploading on the especially created website, as the case may be.

(3) Whenever a judge orders not to record any judicial proceeding or withhold such recording from uploading on especially created website, he shall record his reasons in writing in doing so and make such reasons available to the public through the especially created website.

### CHAPTER IV

#### MISCELLANEOUS

**8.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of other law.

**9.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order or direction shall be made or given after the expiry of two years from the commencement of this Act.

**10. (1)** The Central Government may, by notification and in consultation with the Chief Justice of India, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The Supreme Court is the highest Judicial forum and final court of appeal under the Constitution of India with the power of judicial review.

At present, the proceedings of the Supreme Court are available in public domain in the text format after each hearing. However, as the proceedings are lengthy, the arguments involved are complex, understanding of justice and the rationale behind the judgement becomes difficult for a common man.

Adding two more sensory sources for information 'audio and video' will increase the effectiveness as well as the speed of dissemination of the legal information, both to the legal fraternity as well as common public at large.

In today's world, some of the legal issues are too complex where some of the expressions of the opposing view on the Bench are lost in plain text format (including but not limited to expression of point of information or sarcasm). This can be preserved only through visual archives. Video archives of complex topics will also help intervening agencies like media, civil society and political parties to demystify the arguments of contradictory views and enhance public understanding. Thus, a common man would be able to see and hear directly from the horse's mouth beyond the rhetoric of today's hyper media communication.

Lastly, a visual medium will also help in setting illustrations of exemplary legal conduct. This will not only enhance the faith and respect of the common man in the judiciary but also stand as a shining example for the conduct of judges across the country and provide law students and aspirants an in-depth flavour of high standards expected of them.

Hence, this Bill.

NEW DELHI;  
*December 4, 2015.*

RAJEEV SATAV

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of a Supreme Court Secretariat for recording, storing and providing access to judicial proceedings of the Supreme Court and its Benches. It also provides for appointment of officers and employees to the secretariat to ensure effective implementation of the provisions of this Act. Clause 5 provides for maintaining website and database for making available the records of judicial proceedings of the Supreme Court and its Benches. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative powers is of normal character.

## BILL No.57 OF 2016

*A Bill to provide for compulsory basic facilities like housing, food, water, medicine and security to widows and orphans and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Compulsory Basic Facilities for Widows and Orphans Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “orphan” means a child who is below fourteen years of age and has no living parents or other relatives to take care of his minimum basic needs;

(c) “prescribed” means prescribed by rules made under this Act; and

(d) “widow” means a legally married woman and whose husband has died and does not have any means of livelihood.

3. The Central Government shall, as soon as may be, but not later than six months of the Commencement of this Act, by notification, frame a National Policy for protection and welfare of the widows and orphans.

National policy for widows and orphans.

4. (1) The appropriate Government shall establish adequate number of residential centres all over the country for the use of widows and orphans.

Establishment of residential centres.

(2) Every residential centre shall have the capacity of minimum eighty and maximum two hundred persons to live there at a time.

(3) The appropriate Government shall appoint such number of staff in the residential centres for carrying out the purposes of this Act.

(4) The salary and allowances payable to and other terms and conditions of service of staff of residential centres shall be such as may be prescribed.

5. The appropriate Government shall provide to the widows and orphans—

(a) housing, food, water, medicine, security and the minimum resources necessary to lead a balanced and healthy life in the residential centre; and

(b) employment opportunities by setting up domestic production in the residential centre.

Residential centres to have proper facilities for the beneficiaries.

6. (1) Every residential centre shall be administered by a Managing Committee consisting of—

Administration of the residential centres.

(i) Chairperson of the local body— Chairperson;

(ii) Secretary, State Social Welfare Department— member;

(iii) One person representing widows from amongst widows staying in the residential centre— member; and

(iv) One person representing social worker to be nominated by the appropriate Government— member.

(2) The appropriate Government shall appoint such number of staff to the Managing Committee, as may be necessary, for effective implementation of the provisions of this Act.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members and staff of the Managing Committee shall be such as may be prescribed.

7. (1) The appropriate Government shall establish in each State, the State Monitoring Board to monitor, supervise and coordinate the residential centres operating in each district.

State Monitoring Board.

(2) The Board shall consist of—

(i) Chairperson of State Women Commission — Chairperson;

(ii) Secretary, State Social Welfare Department — member; and

(iii) An eminent social activist to be nominated by the appropriate Government — member.

(3) The appropriate Government shall appoint such officers and staff to the Board for carrying out the purposes of this Act.

(4) The salary and allowances payable to and other terms and conditions of the service of the Chairperson, members and staff of the Board shall be such as may be prescribed.

Central  
Government  
to provide  
requisite  
funds.

**8.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite fund for carrying out the purposes of this Act.

Power to  
make rules.

**9. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

There are large number of widows in the country who are not only discriminated in their family but also in the entire society. In several cases, they are deprived of basic support and assistance. The necessity today is to create a conducive environment climate whereby these widows can live their remaining lives in a productive and happy manner. There is also a large section of the population of orphan kids who are without any support and who live a destitute life. Most of these kids are either subjected to child labour or they are addicted to drugs or are involved in illegal organ trading.

The Bill provides integrated provisions to bring these two disadvantaged sections of the society under one roof where they can use their mutual cooperating role. The need of the hour is to bring together these sections of the society in a socially conducive manner. Widow women should undertake the role of mother for orphan children. This would make a family environment for all of them. Through these centres, along with basic facilities such as food, shelter and clothing, an opportunity to live a more dignified life can be given to all these sections of the society. It is also important that this arrangement should make their lives happy by mutually independent and emotional bonding. In these centres, the neglected, suffering and deprived classes of our society should be able to live a life where they should be free from deprivation and many other problems.

The most important reason to establish these centres is to create a unified shelter for both the needy sections instead of separate orphanage and widow ashram. Two distinctive benefits that should arise from such arrangement are that on one hand there should be a reduction in Government spending on infrastructure, human resources, etc. and on the other hand, these disadvantaged groups should have an opportunity to take care of each other and live a better life with emotion, protective and mental satisfaction.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

NISHIKANT DUBEY

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the residential centres all over the country for the welfare of widows and orphans. It also provides for appointment of staff in the residential centres. Clause 5 provides that appropriate Government shall provide basic facilities to the widows and orphans in the residential centres. Clause 6 provides for administration of the residential centres by the Management Committee. Clause 7 provides for establishment of the State Monitoring Board in each State. Clause 8 provides that Central Government shall provide adequate funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the expenditure at this juncture. However, it is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of about rupees five hundred crores is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.



## BILL NO. 59 OF 2016

*A Bill to provide for mechanism through which a person who is unable to pay off his debts shall be declared bankrupt and rehabilitated and for matters connected therewith.*

## CHAPTER I

## PRELIMINARY

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Personal Bankruptcy (Declaration and Rehabilitation) Act, 2016.

(2) It extends to the whole of India.

Short title,  
extent and  
commencement.

(3) It shall come into force on such date, as the appropriate Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for coming into force of different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases, the Central Government;

(b) "bankruptcy" means the legal status of an individual citizen who is unable to pay to his creditors;

(c) "creditor" means an individual, a bank, a non-banking financial intermediary or any such registered or non-registered institution which does the banking function of accepting deposits and lending money;

(d) "debt" means an amount owed to a creditor from debtor;

(e) "debtor" means an individual who owes money to a creditor;

(f) "defaulter" means any debtor who does not repay the debt despite adequate liquidity;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "secured creditor" means any creditor who has the legal right to take a specific property of the debtor and sell it in case of default in payment;

(i) "Tribunal" means the Special Bankruptcy Tribunal established under section 3; and

(j) "trustee" means an officer attached to a Tribunal under section 5.

## CHAPTER II

### ESTABLISHMENT OF TRIBUNAL

Establishment  
of the  
Tribunal.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish a Special Bankruptcy Tribunal, in every District for exercising the jurisdiction, power and authority conferred on such tribunals under this Act.

(2) The Tribunal shall consist of—

(a) a Chairperson, to be appointed by the appropriate Government, who has been a Judge of the High Court for a period of not less than five years; and

(b) not less than three judicial members, to be appointed by the appropriate Government, in such manner, as may be prescribed, from amongst the persons who have served as judicial officer for at least five years in a Civil Court or District Court of any State.

Terms, salaries  
and allowances  
of members.

4. (1) The Chairperson and the judicial members of the Tribunal shall hold office for a term of five years and shall be eligible for re-appointment only once.

(2) The salaries and allowances payable to and other terms and conditions of service of the Chairperson and the judicial members shall be such as may be prescribed.

Trustee to  
reduce property  
to cash and  
distribute  
among  
creditors.

5. Every Tribunal shall have one trustee who shall take charge of the property of the debtor who has applied to be declared as bankrupt and who shall reduce every property of the debtor to cash, except the exempt properties under section 14 and distribute the cash to creditors within three months of such application.

**6.** The appropriate Government shall provide such number of officers and staff to the Tribunal, as may be prescribed, for carrying out the purposes of this Act.

Appointment of other officers to the Tribunal.

**7.** The appropriate Government may, in consultation with the Chairpersons of the Tribunals, make rules regulating the practices and procedures of the Tribunal.

Appropriate Government to make rules.

### CHAPTER III

#### DECLARING BANKRUPTCY

**8.** No debtor shall be eligible to file a petition for bankruptcy if he—

Declaration of bankruptcy by a debtor.

(i) transfers his property or any part thereof with the intent not to repay or delay payment of his debt to his creditors;

(ii) transfers his property, or any part thereof, the transfer being void due to fraudulent transfer under this Act or any other enactment for the time being in force for being adjudged an insolvent;

(iii) intends not to repay or delay payment of his debt to his creditors by departing or remaining out of the territories to which the Act extends or departs from his dwelling house or usual place of business or otherwise absent himself or secludes himself so as to deprive his creditors of the means of communicating with him;

(iv) gives notice to any of his creditors that he has suspended, or that he is about to suspend payment of his debts; or

(v) is sentenced to imprisonment by any court.

**9.** A debtor shall be entitled to file a bankruptcy petition if—

Entitlement for filing bankruptcy.

(i) he is a non-wilful defaulter;

(ii) his debt amount to rupees ten thousand or more; or

(iii) he is under arrest or imprisonment for payment of money; or

(iv) an order of attachment has been made against his property.

**10.** A debtor, entitled to file a bankruptcy petition, shall do so before the Special Bankruptcy Tribunal of the district where he resides.

Petition to be filed in appropriate jurisdiction.

**11.** (1) Each bankruptcy petition shall be in writing, duly signed and verified in such manner as may be prescribed.

Contents of the petition.

(2) Without prejudice to the generality of foregoing provisions, each bankruptcy petition shall contain:

(i) a statement that the debtor is unable to pay his debts;

(ii) the place where he ordinarily resides or carries on business or personally works, or, if he has been arrested or imprisoned, the place where he is in custody;

(iii) the order of the court under which he has been arrested or imprisoned, or an order which has been made for the attachment of his property;

(iv) the amount and particulars of all pecuniary claims against him, together with the names and residences of his creditors;

(v) the amount and particulars of his property, a specification of the value of all such property not consisting of money, the place or places at which any such property is located; and

(vi) a statement whether the debtor has on any previous occasion filed a petition to be adjudged an insolvent and in that case—

(a) if such petition has been dismissed, the reasons for such dismissal, or

(b) if the debtor has been adjudged an insolvent, concise particulars of the insolvency, including a statement whether any previous adjudication has been annulled and, if so, the grounds therefor.

Creditor to file  
bankruptcy  
petition.

**12. (1)** A creditor shall file a bankruptcy petition against his debtor, only if he is of the opinion that the debtor is a wilful defaulter.

(2) Every bankruptcy petition presented by a creditor shall set forth the full particulars of the debtor and shall also specify,—

(i) the act of insolvency committed by such debtor, together with the date of its commission;

(ii) the amount and particulars of his pecuniary claim against such debtor:

Provided that no bankruptcy petition shall be filed against corporations, joint ventures, companies or partnerships under this Act.

(3) The procedure laid down in the Code of Civil Procedure, 1908 with respect to the admission of complaints, shall so far as it is applicable, be followed in the case of bankruptcy petitions. 5 of 1908.

(4) No petition, whether presented by a debtor or a creditor, shall be withdrawn without the leave of the Tribunal.

## CHAPTER IV

### PROCEDURE AT THE TRIBUNAL

Procedure for  
adjudging  
bankruptcy of  
debtor.

**13. (1)** Subject to the conditions specified in this Act, once a creditor or debtor files a petition of bankruptcy after following the procedures laid down in this Act, the Tribunal may issue an order adjudging bankruptcy of the debtor.

(2) The Tribunal shall, by order, fix a date for hearing the petition after receiving a bankruptcy petition and the notice of such an order fixing the date of hearing shall be served to the debtor as well as the creditors.

(3) On the day fixed for the hearing of the petition or on any other day to which the hearing is postponed, the debtor or creditor, as the case may be, shall prove before the Tribunal that he is entitled to file the petition—

(a) where the debtor is the petitioner, he shall furnish documents to prove that he is a non-wilful defaulter; and

(b) where the creditor is the petitioner, he shall furnish documents to prove that the debtor is a wilful defaulter.

(4) The Tribunal shall, if deem necessary grant time to the debtor or creditor, as the case may be, to produce further evidence on the case.

(5) The Tribunal shall dismiss the petition, after due examination of the documents and other evidences, if, in the case of a petition being filed by—

(a) a debtor, the Tribunal is not satisfied that he is not a non-wilful defaulter; and

(b) a creditor, the Tribunal is not satisfied that the debtor is not a wilful defaulter.

(6) The tribunal shall order an enquiry to be conducted to establish that the current monthly income of the debtor is not higher than a desired limit as decided by the Tribunal, given that such income is not above the median income of the State where the debtor resides;

(7) If the petition, after due examination of evidence, is accepted, then the Tribunal shall issue an order of bankruptcy adjudging the debtor as bankrupt, and the copy of such an order shall be served both on the debtor and the creditor.

**14.** Once the order is made, the Tribunal shall entrust the properties, if any, of the debtor, with the trustee of the Tribunal, except the following exempt properties—

Power to entrust property with trustee and list of exempt properties.

(a) the house of the debtor;

(b) the area where the house is built;

(c) such essential utilities and utensils required for the house, as may be prescribed; and

(d) the essential instruments required by debtor, who is a farmer, carpenter or such other professional, to continue his work.

**15.** The trustee shall be responsible to liquidate the properties to money in such manner, as may be prescribed, and distribute the money to the creditors in the following order of preference—

Responsibility of trustee to liquidate properties.

(i) fully secured creditors;

(ii) partly secured creditors to the extent they are secured;

(iii) realization of expenses and remuneration of the trustee;

(iv) preferential creditors; and

(v) unsecured creditors:

Provided that nothing in this section shall affect the power of any secured creditor to realise his security in the manner in which he is otherwise entitled.

**16. (1)** Whether the Tribunal, after distribution of money, is convinced that the default in payments by the debtor was not wilful and the conduct of the debtor has been satisfactory during the tribunal proceedings, it shall issue a discharge certificate to the debtor.

Certificate of Discharge.

(2) On obtaining the certificate of discharge, the unpaid debts shall stand cancelled and the debtor not be liable to the demands of his creditors.

(3) The time taken from the filing of the petition to the issue of the certificate of discharge shall not be more than three months:

Provided that if the Tribunal has reasons to believe that the procedure of liquidating the properties of a debtor shall take more time, on the request of the trustee, the Tribunal shall grant an additional time not exceeding one month for the completion of all procedures.

(4) The certificate of discharge shall not release the debtor from—

(a) any debt due to the Government;

(b) any debt or liability incurred by any means of fraud or fraudulent breach of trust to which he is party;

(c) any debt or liability in respect of which debtor was granted forbearance by fraud on his part; or

(d) any liability under an order for maintenance made under section 125 of the Code of Criminal Procedure, 1973.

2 of 1974.

## CHAPTER V

### REHABILITATION

**17.** After the issue of the order of bankruptcy, the debtor, his immediate relatives and his properties shall be protected from all coercive methods, physical and emotional, of the creditors or any intermediary thereof.

Protection to debtor and kin.

Bankruptcy  
Rehabilitation  
Fund.

**18.** The appropriate Government shall constitute a Bankruptcy Rehabilitation Fund to help and rehabilitate the declared bankrupts within a period of one year from the coming into force of this Act, and ensure that—

(i) every person who is declared bankrupt by the Tribunal by order of bankruptcy is provided with minimum social benefits by the appropriate Government; and

(ii) the debtor, if the Tribunal feels necessary, shall be recommended to be given loan from the Bankruptcy Rehabilitation Fund at such rate of interest, as may be prescribed by the Tribunal.

Plan to pay  
off debt in  
case of no  
properties  
except  
exempt  
properties.

**19. (1)** A debtor, who is declared bankrupt with no properties, except his house to pay off debts, shall submit a proposal outlining his plan to pay off the debts.

(2) The plan to pay off debts shall be submitted to the Tribunal within three months from the date of declaration of bankruptcy.

(3) The debtor shall pay off the debts in accordance with the plan within a period of three months:

Provided that the Tribunal may, if satisfied, extend the time period to pay off the debts:

Provided further that if the debtor is a farmer, an extension of at least two years shall be given to him to pay off his debts:

Provided also that in case the default in payment of a debtor is caused by natural calamities, the Tribunal shall impose a moratorium for the payments of the debt for such period if may deems appropriate.

## CHAPTER VI

### CIVIL RECORD AND PENALTY

Record of  
Bankruptcy in  
civil and  
credit record.

**20.** After issue of the order of bankruptcy by the Tribunal, the record of bankruptcy shall remain on the debtors credit record and civil record till the next seven years along with the certificate of discharge.

Misrepresenta-  
tion of  
Statement of  
Bankruptcy of  
other records  
as a punishable  
offence.

**21. (1)** Whoever make any mis-representation in the statement of bankruptcy in the credit or civil record shall be punished with imprisonment for one month and also with fine which may extend to ten lakh rupees.

(2) All sums realised by way of fines shall be credited in the Bankruptcy Rehabilitation Fund.

## CHAPTER VII

### MISCELLANEOUS

Repeal and  
Saving.

**22. (1)** The Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 are hereby repealed.

3 of 1909.  
5 of 1920.

(2) The repeal by this Act of any enactment shall not affect any act in which such enactment has been applied, incorporated or referred to and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing.

Central  
Government  
to provide  
funds.

**23.** The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to  
remove  
difficulty.

**24.** If any difficulty arises in giving effect to the provisions of this Act, the appropriate Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty:

Provided that no such order or direction shall be made after the expiration of two years from the commencement of this Act.

**25.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

According to the World Bank report, India's ranking fell from 109 to 132 among 185 economies in 2012 when it comes to ease or resolving insolvency issues. Personal Bankruptcy laws help people who are no longer in a position to pay off their debts and are distressed due to coercive methods used by creditors, thus unable to make a fresh start. The personal bankruptcy framework in India is weak and barely has provisions in any law to deal with the matter effectively, apart from a few passed almost over a century ago, during the British regime, namely, the Provincial Insolvency Act, 1920 and the Presidency Towns Insolvency Act, 1909. The present Bill also seeks to repeal the two archaic laws.

In the context of massive growth of different types of loans, credit card usage and the like, the law should also be progressive and effective. Bankruptcy and insolvency is specified in the entry 9 of the concurrent list of the Seventh Schedule to the constitution. The Centre as well as the State Governments have the power to legislate on the same and both share responsibility to take necessary action in the matter. The Bill is an attempt to make a comprehensive legislation regarding personal bankruptcy. It vests upon the appropriate Government to establish Special Tribunals to admit petitions of bankruptcy and issue notices to hear cases of personal bankruptcy.

The Bill lays down the guidelines for functioning of the Tribunal as well as safeguards to rehabilitate debtors and make for a transparent, expeditious and just procedure for settling debt. There are separate provisions for farmers who are debtors, in which case, the legislation is comparatively liberal with regard to the allocation of time. The record of bankruptcy will be present in the civil and credit record of the person for a period of seven years from the date of issue of the order of bankruptcy by the Tribunal along with the certificate of discharge.

The Bill also provides for a Bankruptcy Rehabilitation Fund for the revival of those declared bankrupt along with imposing penalty in the form of fine or imprisonment, or both in the event of misrepresentation of the statement of bankruptcy in the civil and credit record of any person. The remuneration earned thereof would be deposited in the Bankruptcy Rehabilitation Fund.

Hence this Bill.

NEW DELHI;  
*February 8, 2016*

NISHIKANT DUBEY



#### FINANCIAL MEMORANDUM

By virtue of clause 3 of this Bill the Central Government shall set up special Tribunals in Union Territories to hear cases of personal bankruptcy. Clause 4 provides for term, salaries and allowances of Chairperson and members of the Tribunal. Clause 18 provides for constitution of Bankruptcy Rehabilitation Fund. Clause 23 provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the consolidated fund of India. It is estimated that a sum of rupees one hundred crore will be involved as a recurring expenditure per annum from the consolidated fund of India.

A non-recurring expenditure of rupees one hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the appropriate Government to make rules to regulate the practices and procedures of the Tribunal. Clause 25 empowers to the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO.48 OF 2016

*A Bill further to amend the Andhra Pradesh Reorganisation Act, 2014.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Andhra Pradesh Reorganisation (Amendment) Act, 2016.

(2) It shall come into force at once.

Amendment  
of section 46.

**2.** In section 46 of the Andhra Pradesh Reorganisation Act, 2014, (hereinafter referred as the principal Act), in sub-section (2), after the words "backward areas", the words "including Prakasam district" shall be submitted. 6 of 2014.

Amendment  
of section 94.

**3.** In section 94 of the principle Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Central Government shall support the programmes for the development of backward areas, particularly the areas comprising the district of Prakasam, in the successor States, including expansion of physical and social infrastructure for a period of 20 years."

## STATEMENT OF OBJECTS AND REASONS

Prakasam district was formed by merging the most backward areas from Kurnool, Guntur and Nellore districts of the State of Andhra Pradesh with the sole objective to develop these backward areas by taking Prakasam district as a unit. But, unfortunately, nothing has been done since its formation in 1972.

Even after nearly four and a half decades of its existence, Prakasam is still one of the districts in the country facing acute drinking water problem. Forty-eight out of fifty-six Mandals are affected with Fluorosis. This district is a part of Red Corridor. There is no perennial river. It is irony that there is no IIT or IIM or Central University or even Government Engineering College or University to say the least. The district has only one four lane road which is NH-5 and two lane roads are rare in the district.

Prakasam being the drought-prone, only tobacco can be grown as no other crop is suitable to the soil of the region. There is no basic infrastructure, not even a Port inspite of having huge coastline and no airport also. There are no major industries which otherwise would have provided employment to the people of this area.

Due to this, there have been persistent demands to declare Prakasam as backward district. But, even when number of backward districts increased to 250, shockingly, Prakasam has not been considered.

In view of this, it is proposed to amend the Andhra Pradesh Reorganisation Act, 2014 to include Prakasam as a backward district under section 46 to give statutory backing to this district for development package on the lines of KBK districts in Odisha and Bundelkhand in Madhya Pradesh and Uttar Pradesh which will help in improving the living conditions of the people of Prakasam. The Bill also seeks to amend section 94 of the Act so as to include Prakasam district along with other identified districts in the successor States of Andhra Pradesh for its development through fiscal incentives and other programmes of the Central Government.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

Y. V. SUBBA REDDY

## FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to include Prakasam district along with other identified districts in the successor State of Andhra Pradesh for its development through fiscal incentives and other programmes of the Centre. The Bill, therefore, if enacted, would involve expenditure from Consolidated Fund of India. An annual recurring expenditure of rupees fifty crore would be involved.

A non-recurring expenditure of rupees ten crore is also likely to be involved.

## BILL NO. 20 OF 2016

*A Bill to prohibit surrogate advertisements and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Surrogate Advertisements (Prohibition) Act, 2016.

Short title and  
extent.

(2) It extends to the whole of India.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "advertisement" includes any pamphlet, writing, drawing, painting, photograph, bill, circular, notice, label, poster, hoarding, banner or other documents and also includes any visible representation made through radio, television, cassettes or slides by means of any light, sound, smoke or gas and publication in print media such as newspapers, magazines and books;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "surrogate advertisement" means an advertisement which shows a substitute product in the guise of the real one which otherwise cannot be legally advertised through the print and electronic media.

(2) Words and expressions used but not defined in this Act but defined in the Cinematograph Act, 1952 and the Cable Television Networks (Regulation) Act, 1995 shall have the same meanings respectively assigned to them in those Acts.

37 of 1952.

7 of 1995.

Prohibition to publish or telecast surrogate advertisements.

**3.** No person shall publish or telecast or cause to be published or telecast or arrange to take part in the publication or telecast of surrogate advertisement.

Appropriate Government to designate agencies to implement the provisions of the Act.

**4.** The appropriate Government shall designate such agencies as it may consider appropriate for effective implementation of the provisions of this Act.

Penalty.

**5.** Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which shall not be less than five years but which may extend upto ten years and with fine which shall not be less than five lakh rupees but which may extend upto ten lakh rupees.

Offences by companies, firms and other associations.

**6.** Where an offence under this Act has been committed by a company, firm or other association of individuals, every person who, at the time the offence was committed, was incharge of, and was responsible to the company, firm or association for the conduct of the business of the company, firm or association, as the case may be, shall be deemed to be guilty and shall be liable to be proceeded against and punished accordingly.

Offences to be cognizable and non-bailable.

**7.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.

2 of 1974.

Act not in derogation of other laws.

**8.** The provision of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not to apply to certain advertisements.

**9.** (1) For the removal of doubts, it is hereby declared that the provisions of this Act shall not apply to advertisements which are aimed at educating the general public or a particular group.

(2) For the purpose of deciding whether an advertisement aimed at educating general public or a particular group, the Central Government shall designate such number of officers, not below the rank of Joint Secretary, as it may deem fit.

Power to make rules.

**10.** (1) The Central Government may by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The Government of India has banned product advertising for liquor and cigarette companies under the Cable Television Network (Regulation) Act, 1995. Rule 7 of the Cable Television Rules, 1994 also prohibits any direct or indirect promotion of such items in the public domain. Section 6 of Chapter III of Advertising Standard Council of India (ASCI) Code had also laid down certain basic guidelines prohibiting surrogate advertising. Section 2(1)(r) of the Consumer Protection Act, 1986 gives a comprehensive definition of unfair trade practices. Section 5 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA) prohibits promotion of brand of all tobacco products in all forms of audio, visual and print media. Article 13 of the World Health Organisation Framework Convention on Tobacco Control 2005 bans advertising, promotion and sponsorship of tobacco. But manufacturers of liquor, cigarette, tobacco and other harmful products still promote their products through surrogate advertisements. Surrogate advertising is a form of promotion of products especially narcotic products, which cannot be advertised directly under applicable Indian laws. Surrogate advertisements are not only misleading, but also false and dishonest in many cases.

The proposed Bill seeks to put total ban on surrogate advertising of liquor, tobacco and other harmful products to prohibit sponsorship of sports and cultural events either directly or indirectly by these manufacturers.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

BOORA NARSAIAH GOUD

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.



## BILL NO. 62 OF 2016

*A Bill to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2016.

Short title  
and com-  
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

56 of 2007.

**2.** After Chapter II of the Maintenance and Welfare of Senior Citizens Act, 2007, the following Chapter and sections thereunder shall be inserted, namely:—

Insertion of  
new Chapter  
IIA.

"CHAPTER IIA

THE NATIONAL COMMISSION FOR SENIOR CITIZENS

**18 A.** (1) The Central Government shall, by notification in the Official Gazette, establish a National Commission for Senior Citizens, hereinafter referred to as the Commission, for carrying out the purposes of this Act.

Establishment  
of National  
Commission  
for Senior  
Citizens.

(2) The Commission shall consist of a Chairperson, Vice-Chairperson and three other members to be appointed by the Central Government in such manner as may be prescribed.

(3) The Commission shall have the power to regulate its own procedure.

Function of  
the  
Commission.

**18B.** (1) The Commission shall—

(a) investigate and monitor all matters relating to the safeguards provided for the senior citizens under this Act or the Constitution or under any other law for the time being in force or under any order of the Central Government;

(b) evaluate the working of safeguards provided under this Act;

(c) inquire into specific complaints with respect to the deprivation of rights and safeguards of the senior citizens;

(d) participate and advise on the planning process of socio-economic development of the senior citizens and evaluate the progress of their development under the Central Government and State Governments;

(e) present to the Central Government annually and at such other times as the Commission may deem fit, reports upon the working of safeguards provided under this Act;

(f) make recommendations as to the measures that should be taken by the Central Government or the State Governments for effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the senior citizens; and

(g) discharge such other functions in relation to the protection, welfare and development and advancement of the senior citizens as may be prescribed.

(2) The Central Government shall cause all such reports, as are presented to it under clause (e) of sub-section (1), to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government concerned and the State Government shall cause such report to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to that State and the reasons for the non-acceptance, if any, of any of such recommendations.

Powers of  
Commission.

**18C.** The Commission shall, while performing its functions under section 18B, have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Central and  
State  
Governments  
to consult the  
Commission.

**18D.** The Central Government and every State Government shall consult the Commission on all major policy matters affecting senior citizens."

## STATEMENT OF OBJECTS AND REASONS

There has been a steady rise in the population of elder persons in India. The number of elder persons has increased from 19.8 million in 1951 to 103.8 millions in 2011. The projection indicates that the number of persons above sixty years of age in India will increase to 116.10 millions in 2016, 143.20 millions in 2021 and 173.2 millions in 2026. Further, as per the United Nations Projections on old age population in India, the overall population in India by the year 2050 will grow by 55% but more alarmingly, the population of people of the age of sixty years and above will increase by 326% and those in the age group of eighty and above by 700% which is the fastest growing group. Continuous increase in life expectancy means that more people are now living longer ensuring that they not merely live longer, but lead a secure, dignified and productive life, which is a major challenge.

The traditional norms and values of the Indian society laid stress on showing respect and providing care for the aged. However, in recent times, society is witnessing a gradual but definite withering of the joint family system, as a result of which a large number of parents are being neglected by their families thereby exposing them to lack of emotional, physical and financial support. These older persons are facing a lot of problems in the absence of adequate social security.

The situation of older persons was highlighted for the first time at the World Assembly on Ageing in 1982 in Vienna wherein International Plan of Action on Ageing was adopted. It served as an international blue print for development of policies and programmes on ageing. Later, the United Nations Principles for Older persons were adopted by General Assembly Resolution 46-91 on 16th December, 1991. The following are the five principles which the Central and State Governments are encouraged to incorporate into national programmes wherever possible:—

(i) Independence: Older persons should have access to food, water, shelter, clothing, health care, work and other income-generating opportunities, education, training and a life in safe environment.

(ii) Participation: Older persons should remain integrated into community life and participate actively in the formulation of policies affecting their well-being.

(iii) Care: Older persons should have access to social and legal services and to health care so that they can maintain an optimum level of physical, mental and emotional well-being. This should include full respect, dignity, beliefs, needs and privacy.

(iv) Self-fulfillment: Older persons should have access to educational, cultural, spiritual and recreational resources and be able to develop their full potential.

(v) Dignity: Older persons should be able to live in dignity and security, be free of exploitation, physical or mental, and be treated fairly regardless of age, gender and racial or ethnic background.

The National Policy on Older Persons was announced by the Government of India in January, 1999. Though the Policy had several features like State support to ensure financial and food security, health care, shelter and other needs of older persons to improve the quality of their lives, the implementation has been rather tardy and there is no coordination mechanism to effectively implement the policy.

The second World Assembly on Ageing was held in Madrid in 2002 where Madrid International Plan of Action on Ageing (MIPAA), 2002 was adopted and endorsed by the General Assembly. The Plan has inspired the development of National and Regional plans and provided an international framework for dialogue on ageing. The Government set up a Committee under the Chairmanship of Dr. (Smt.) V. Mohini Giri to draft a new National Policy on Senior Citizens, which submitted its report on 30th March, 2011, but the policy is yet to be finalized and implemented.

With a view to ensure the well-being of senior citizens, by strengthening their legitimate place in society and extending support for financial and food security, healthcare, shelter, equitable share in development, protection against abuse and exploitation and fulfillment of other needs, there is a necessity for setting up a National Commission for the Senior Citizens.

The Bill, therefore, seeks to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 with a view to establish a National Commission for Senior Citizens for the protection and welfare of senior citizens.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

BOORA NARSAIAH GOUD

#### FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for constitution of the National Commission for Senior Citizens. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give the exact amount to be incurred. However, it is estimated that a recurring expenditure of about rupees one hundred crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees fifty crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the Central Government to appoint the Chairperson, Vice-Chairperson and three members of the National Commission for Senior Citizens in such manner as may be prescribed by rules made under this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 34 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of  
article 243K.

**2.** In article 243K of the Constitution,—

(a) for clause (1) the following clauses shall be substituted, namely:—

"(1) Subject to the provisions of clause (1A), the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(1A) The Election Commission shall have the power to issue any direction or instruction to the State Election Commission for the discharge of its functions under clause (1)."; and

(b) after clause (4), the following clause shall be inserted, namely:—

"(5) The State Election Commission shall submit its annual report to the Election Commission and to the Governor, and it may, at any time, submit special reports on any matter which in its opinion is of such urgency or importance that it should not be deferred till the submission of its annual report."

3. In article 243ZA of the Constitution, for clause (1), the following clauses shall be substituted, namely:—

Amendment of  
article 243ZA.

"(1) Subject to the provisions of clause (1A), the Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243 K.

(1A) The Election Commission shall have the power to issue any direction or instruction to the State Election Commission for the discharge of its functions under clause (1)."

## STATEMENT OF OBJECTS AND REASONS

The State Governments often delay Panchayat elections on purely political considerations. They do so, because they retain some powers relating to the conduct of elections under the State Acts/Rules. The State Election Commission has to depend upon the State Government for logistic support including staff and finances. Besides, certain important powers like issuance of election notification, delimitation of constituencies, earmarking of reserved seats, etc. are retained by the State Governments in many States. Considering all these, there is strong case for further strengthening the hands of the State Election Commissions by making specific provisions in the Constitution itself.

Sometimes, the State Election Commission have to fight long battles against the State Governments in order to fulfil their constitutional duty to hold elections as per the provisions of law. In order to ensure the accountability of the States in timely conduct of Panchayat and Municipal elections, it is felt that the State Election Commissions should function independently and draw expertise and guidance from the Election Commission of India.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

BOORA NARSAIAH GOUD



## BILL NO. 51 OF 2016

*A Bill to provide for protection and welfare of small-holder farmers by constitution of a Minimum Assurance Price Commission for their agricultural produce and a Small-holder Farmers Welfare Fund and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Small-holder Farmers (Protection and Welfare) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "agricultural produce" means agricultural produce specified in the schedule;
- (b) "Commission" means the Minimum Price Assurance Commission constituted under section 6;
- (c) "Fund" means the Small-holder Farmers Welfare Fund constituted under section 4;
- (d) "minimum assured price" means the price of the agricultural produces fixed and declared by the Central Government under section 3;
- (e) "prescribed" means prescribed by rules made under this Act; and
- (f) "small-holder farmer" means a person possessing agricultural land measuring not more than ten acres and who has no major income from any source other than agriculture.

Central Government to declare minimum assured price of agricultural produce.

3. The Central Government shall, on recommendation of the Commission, at least one month before every financial year, by notification in the Official Gazette, declare the minimum assured price for each agricultural produce.

Constitution of Small-holder Farmers Welfare Fund.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Small-holder Farmers Welfare Fund for carrying out the purposes of this Act.

(2) The initial corpus of rupees one hundred crore of which rupees fifty crore shall be provided by the Central Government, after due appropriation made by Parliament by law in this behalf, and rupees fifty crore shall be provided by the State Governments in such proportion as may be prescribed.

(3) The Central Government and State Governments shall contribute every year to the Fund in such ratio as may be prescribed.

(4) There shall also be credited to the Fund moneys received under corporate social responsibility from the corporate and other private individuals.

Utilization of Fund.

5. The Fund shall be utilized for—

- (i) providing minimum assured price for agricultural produce;
- (ii) payment of pension to every small-holder farmer who has attained the age of fifty-five years;
- (iii) financial assistance to the young small-holder farmers for innovative proposals; and
- (iv) establishing efficient institutional mechanism for fullfledged marketing of agricultural produce.

Constitution of the Minimum Price Assurance Commission.

6. (1) The Central Government shall, as soon as possible but not later than six months of the commencement of this Act, by notification in the Official Gazette, constitute a Commission to be known as the Minimum Price Assurance Commission.

(2) The Commission shall consist of—

- (a) a Chairperson to be appointed by the Central Government in such manner, as may be prescribed, from amongst the persons having knowledge in the field of agricultural operations in small-holder farming sector and expertise in agricultural economics;

(b) a Vice-Chairperson to be elected by and from amongst the members of the Commission representing the small-holder farmers;

(c) two Members of Parliament, one each from Lok Sabha and Rajya Sabha, to be elected by the respective Houses;

(d) one member not below the rank of Joint Secretary, representing the Union Ministry of Agriculture;

(e) one member not below the rank of Joint Secretary, representing the Indian Council of Agriculture Research; and

(f) five members representing small-holder farmers to be nominated by the Central Government in such manner as may be prescribed.

(3) The term of office of the Commission shall be three years.

(4) The Commission shall be a body corporate having perpetual succession and common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall, by the said name, sue or be sued.

7. The Commission shall recommend to the Central Government—

Functions of  
the  
Commission.

(a) the minimum assured price for agricultural produce after taking into consideration the cost of cultivation including fifty *per cent.* margin on the cost of cultivation; and

(b) the steps to be taken for the improvement of livelihood of small-holder farmers.

8. The Central Government may issue such directions to the State Governments as it may think necessary for carrying out the purposes of this Act.

Power to issue  
directions.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have  
overriding  
effect.

10. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## SCHEDULE

[see section 3]

1. Fibre	Coconut
2. Cereals	Paddy
3. Oil seeds	Coconut, Oil palm
4. Fruits	Mango, Orange, Papaya, Guava, Banana, Grapes, Jack fruit, Pineapple, Rambutan, Mangostin, Cocoa
5. Vegetables	Common pea, Gram, Tomato, Turmeric, Bitter gourd, Snake gourd, Ash gourd, Elephant foot yam, Winter crops, Chilly
6. Tubers	Topioca, Carrot, Beet root, Common taro, Elephant yam, Carrot, Potato
7. Spices	Pepper, Cardamom, Ginger, Nutmeg, Clove, Cinnamon
8. Cash crops	Rubber, Tea, Coffee

## STATEMENT OF OBJECTS AND REASONS

Agriculture plays a pivotal role in Indian economy and small-holder farmers owe a considerable share in it. Small-holder farmers are farmers with a low asset base and limited resource endowments and who depend on household members for most of the labour, small-holder farmers are characterized by smaller applications of capital but higher use of labour and other family-owned inputs, and generally higher index of cropping intensity and diversification. Farmers, especially small-holder farmers fall in debt trap due to vagaries of nature and lack of assured minimum support price for agricultural produce.

Currently, a farmer is born under debt and dies under the threat of its repayment. Due to total negligence and non-remunerative profession, youngsters are not preferring agriculture as promising and profitable. The pitfalls in farming policy and Free Trade Agreements make the situation more assailable, especially in rural economies. The whole proceedings result in social discontent, anarchy and turmoil which paves the way for terrorism and naxalism.

In short, an immediate effective intervention is needed by the Government to safeguard the dreams, hopes and aspirations of agrarian people. The constitution of the Small-holder Farmers Welfare Fund and the Minimum Assurance Price Commission will lend a helping hand in removing indebtedness and social insecurity from small-holder farming community.

The Bill seeks to achieve the above objectives.

NEW DELHI;  
*February 8, 2016*

JOICE GEORGE

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of a Small-holder Farmers Welfare Fund with initial corpus of fifty crore rupees to be provided by the Central Government. Clause 6 provides for constitution of a Minimum Price Assurance Commission for the welfare of small-holder farmers. The Bill, therefore, if enacted will involve expenditure from Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees One hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 58 OF 2016

*A Bill to provide for welfare and rehabilitation of sex workers and their families and for matters connected therewith or incidental thereto.*

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution provides , *inter alia* that the State shall protect the weaker sections of the society;

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Sex Workers (Welfare and Rehabilitation) Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Board" means National Sex Workers Welfare Board constituted under section 3;

(c) "prescribed" means prescribed by the rules made under this Act; and

(d) "sex worker" means a female, male or a transgender over the age of eighteen years who receives money or goods in exchange for sexual services, either regularly or occasionally.

Constitution  
of a National  
Sex Workers  
Welfare  
Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the National Sex Workers Welfare Board to exercise the powers conferred upon it by or under this Act.

(2) The Board shall consist of—

- |  |                                      |
|--|--------------------------------------|
| (i) Union Minister for Women and Child Development                       | — Chairperson<br><i>ex-officio</i> ; |
| (ii) Joint Secretary, Department of Social Justice and Empowerment       | — Member<br><i>ex-officio</i> ;      |
| (iii) Joint Secretary, Ministry of Housing and Urban Poverty Alleviation | — Member<br><i>ex-officio</i> ; and  |

(iv) five social workers belonging to organisation working for the welfare and rehabilitation of sex workers, or representing the sex workers to be nominated by the Central Government in such manner as may be prescribed.

(3) The members, other than the *ex-officio* members, of the Board shall hold office for a period of three years.

(4) The Central Government shall provide such number of officers and staff to the Board as may be required for its efficient functioning.

(5) The salary and allowances payable to, and other terms and conditions of the service of members, other than the *ex-officio* members, and the officers and staff of the Board shall be such as may be prescribed.

(6) The Board shall meet at least once in every three months.

Powers of the  
Board.

4. (1) The Board shall—

(a) monitor the implementation of this Act;

(b) enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action;

(c) advise the Central and the State Governments for effective implementation of the provisions of this Act; and

(d) take *suo motu* notice of matter relating to non-implementation of this Act.

(2) In the discharge of its powers under sub-section (1), the Board shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.



5. (1) The Board shall undertake or cause to be undertaken, necessary measures, programmes and policies for the rehabilitation of the sex workers.

Functions of  
the Board.

(2) In particular and without prejudice to the generality of foregoing provision, the rehabilitation measures shall include—

(a) provision of a photo identity card to sex workers containing, *inter alia*, details of all dependent members;

(b) free monthly health checkup and free medical aid and medication for Human Immunodeficiency Virus Infection (HIV), Sexually Transmitted Infections (STIs) and other life-threatening diseases caused due to their profession;

(c) establishment of Integrated Counseling and testing Centres for HIV and anti-retroviral treatment;

(d) scholarship to the children of sex workers as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(e) allotment of a residential plot and financial assistance for construction of a house thereon or a ready-built house, subject to eligibility and willingness of the sex worker and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority, as the case may be;

(f) training in a livelihood skill to sex-workers or at least one adult member of their family with payment of monthly stipend of not less than three thousand rupees during the period of such training;

(g) admission, without discrimination, into educational institutions recognized by the Central or a State Government;

(h) subsidy and concessional loans to sex-workers, or at least one adult member of their family, subject to eligibility and willingness, for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority, as the case may be; and

(i) such legal and other assistance to the sex workers as the Central Government or a State Government may notify in this behalf.

6. Whoever violates the provisions of this Act shall be punished with imprisonment for a term which may extend upto twelve months and with fine which may extend upto fifty thousand rupees.

Penalty.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have  
overriding  
effect.

9. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Act not in  
derogation of  
other laws.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to  
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Sex workers face acute discrimination and abuse in India. It is not understood why sex workers are not recognised as right holders like all other persons. In most of the cases, working as a sex worker is not always a choice but it is often bound up with poverty, vulnerability and discrimination which may lead to violence against sex workers. Therefore, need is to address the structural and root causes including poverty and discrimination for persons engaged in sex work.

We should recognize the right of all sex workers to choose their work and to have them access to other employment opportunities.

The Bill, therefore, seeks to provide for counseling and financial support to sex workers along with other rehabilitative measures.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

KIRIT PREMJBHAI SOLANKI

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Sex Workers Welfare Board. It also provides for appointment of members, officers and staff to the Board. Clause 5 provides for issuance of photo identity cards to the sex workers; free monthly health checkups; scholarships to the children of sex workers and other rehabilitative measures. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore is likely to be incurred.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 45 OF 2016

*A Bill to provide for compulsory harvesting of rainwater in every Government, residential, commercial and institutional building to conserve water and ensure recharge of groundwater and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Rainwater (Harvesting and Storage) Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the Union territories only.

(3) It shall come into force on such date, as Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that it is expedient in public interest that the Union Government undertake adequate measures to harvest rainwater so as to conserve water and prevent over-exploitation of existing water bodies.

Declaration.

Definitions.

**3.** In this Act, unless the context otherwise requires:—

(a) "building" includes all such structures, sheds, houses and buildings as may be notified by the Government under this Act;

(b) "commercial establishment" means any building which is being used as an office or factory or for any other commercial purpose in connection with any trade or business;

(c) "Government" means the Central Government or the Union territory Administration, as the case may be;

(d) "Government building" means any building occupied or being used by any Government department or Ministry and includes offices of public sector enterprises, statutory bodies, bodies owned or administered by the Government, autonomous bodies, bodies of local self government and residential areas provided by the Government to government employees;

(e) "household" means a dwelling unit of any description;

(f) "housing society" means a dwelling unit in a complex or building;

(g) "prescribed" means prescribed by rules made under this Act; and

(h) "rainwater harvesting" means collection and storage of rainwater from rooftop of a building or other parts of a building or from a vacant land for use or for the purpose of groundwater recharge.

Compulsory rainwater harvesting in Government buildings.

**4.** It shall be the duty of the Government to ensure and implement such measures, as it may deem necessary and appropriate, to harvest rainwater in Government buildings within such time as may be prescribed.

Compulsory rainwater harvesting by households and residential establishments.

**5. (1)** Every owner of an independent household building having area of not less than 1100 square feet or every owner who proposes to construct an independent household building on a sital area of not less than 1100 square feet shall install rainwater harvesting structures for storage and for use of harvested water or for groundwater recharge.

(2) It shall be obligatory for the builders and promoters of every building and housing society to install rainwater harvesting structure on the top of every building or in the land forming part of the property, in order to meet a part of its total requirement of water in such manner as may be prescribed.

(3) The responsibility to ensure compliance of the provisions of sub-section (2) shall lie with the developer or builder of the proposed building or housing society.

*Explanation.*— For the purposes of this section "builder" or "developer" means the company or individual or group of individuals responsible for the planning and construction of the building or housing society.

Compulsory rainwater harvesting by commercial establishment.

**6. (1)** Every commercial establishment shall adopt such measures to provide rain water harvesting structures for storage and for use of harvested water or for groundwater recharge within the premises of the commercial establishment.

(2) The responsibility to ensure compliance of the provisions of sub-section (1) shall lie on the person, by whatever name called, who is primarily responsible for the affairs of that establishment.

Action plan to educate the masses about rainwater harvesting.

**7. (1)** The Government shall, as soon as possible, prepare an action plan to educate the masses about the technology and the benefits of rainwater harvesting.

(2) For the purpose of spreading awareness and promotion of rainwater harvesting, including awareness and promotion through internet, the Government shall encourage non-Governmental Organisations and other agencies or institutions engaged in the field of rainwater harvesting by providing them adequate financial assistance.

**8.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.

Central Government to provide requisite funds.

**9.** Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which may extend upto two years and with fine which may extend upto rupees one lakh.

**10.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**11.** This provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of other laws.

**12. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Water availability per capita has been on the decline in India due to increasing demand for water and the rapid population growth. The quantum of water available in the country being fixed, the increasing demand has reduced per capita water availability.

There is a large-scale pollution of water as a result of industrialisation and urbanization, a trend which has to be checked. Water in most industries is used for cooling purposes, thus, it is not necessary to use potable water. Instead, the recycled water may be used for this purpose. Demand of water for domestic use can also be reduced. For example, in most urban areas about 12.5 litres of water is used in one flushing. By using the recycled water over and over again, fresh water can be conserved.

Compulsory rainwater harvesting is, therefore, need of hour. It will not only reduce the burden on limited water resources but will also ensure sustainability for the future generations.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

KIRIT PREMJBHAI SOLANKI



#### FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Government shall provide adequate financial assistance to non-Governmental organisations and other agencies or institutions engaged in the field of rainwater harvesting for the purpose of spreading awareness among people about the importance of rainwater harvesting. Clause 8 provides that the Central Government shall provide requisite funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore is likely to be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees two hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO.65 OF 2016

*A Bill to provide for education loan to students and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and extent.

**1.** (1) This Act may be called the Education Loan Act, 2016.

(2) It extends to the whole of India.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) “bank” means any nationalized or commercial bank and includes a private or foreign bank;

(b) “prescribed” means prescribed by rules made under the Act; and

(c) “student” means a person who is pursuing any course of study, including any professional or vocational course in any college or institution or university.

3. (1) The Central Government shall, within six months of the commencement of this Act, formulate a scheme for providing education loan at such rate of interest, as may be prescribed, to students for following purposes, namely:—
- Scheme for education loan to students.
- (a) pursuing professional courses such as medical, engineering or vocational course or education in any discipline in any college or institution or university; and
- (b) pursuing research in any recognized research institute or university.
4. (1) An application for education loan shall be made by a student in the prescribed format to any branch of a bank in such manner as may be prescribed.
- Application for loan.
- (2) An application made under sub-section (1) shall be disposed of within a period of one month from the date of its receipt.
5. The Bank shall make payment directly to the head of the college or institution or university where the student is studying or seeking admission.
- Payment to be made directly to the head of the institution.
6. No bank shall—
- (i) refuse an education loan to a student on any ground;
- (ii) insist on any sort of guarantee, mortgage or surety for the purpose of disbursement of loan;
- (iii) charge interest more than the rate prescribed;
- (iv) withhold degree/diploma certificates, mark sheets in original; and
- (v) initiate recovery process of the loan before the completion of one year of securing a job by a student who has taken an education loan.
- No bank shall deny an educational loan.
7. If any bank violates the provisions of section 6, the director or other officer of the bank responsible for the violation, unless he proves that such violation took place without his knowledge or that he exercised all due diligence to prevent, shall be deemed to be guilty of such violation and shall be punished with imprisonment for a term which may extend upto one year or a fine which shall be equal to the amount of loan sought by the student.
- Punishment.
8. (1) The Central Government shall formulate a scheme for waiving off such loan, if a student, even after five years of completing his course, fails to secure any employment.
- Waiving off loan.
- (2) Subject to such rules as may be made, the waiving off of loans shall be applicable only to such *bona fide* students who do not get suitable employment after completing their education.
9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- Power to make rules.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

It is indeed a welcome step that educational loans are being given to students for pursuing higher education. Economically poor students, who could not earlier afford the cost of professional and higher education are also now in a position to pursue higher education because of education loan. However, the policy of giving education loan is deficient on many counts. It has no statutory backing or proper guidelines. Each bank has its own guidelines and fixes its own criteria for disbursing loan. Many banks often refuse the same on some silly and technical grounds. Guarantee and surety is always insisted upon before granting the loan. The rate of interest on such loan also varies from bank to bank. Students are harassed and have to run from pillar to post to get the loan disbursed. Students pursuing studies in private institutions and seeking admission in management quota are not given loan. Therefore, it is sought to ensure through the Bill that education loan should not be denied to any student. Any person who violates the guidelines framed for education loan shall be punished so that no bank dares to refuse loan to students.

Further, many students after completion of their course do not get jobs. Thus, they are not in a position to repay the loan taken. In such cases, a policy or scheme for waiving of loans should also be considered.

Hence this Bill.

NEW DELHI;  
*February 8, 2016.*

BHAIRON PRASAD MISHRA

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#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the framing of a scheme for providing educational loans to students. Clause 8 provides for framing of a scheme for waiving of educational loan if a student fails to secure any employment after completion of his course. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two hundred crore will be involved as a recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 49 OF 2016

*A Bill to provide for the segregation and re-cycle of municipal solid waste; use of re-cyclable waste in waste-energy plants for generation of energy and transportation of non-re-cyclable waste into landfills and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Waste Management Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the Government of that State and in all other cases, the Central Government;

(b) “large manufacturing facility” means any manufacturing facility with an investment of more than rupees thirty crore;

(c) “municipal authority” means Municipal Corporation, Municipality, Nagar Palika, Nagar Nigam, Nagar Panchayat, Municipal Council including Notified Area Committee (NAC) or any other local body constituted under the relevant statutes and entrusted with the responsibility management and handling of municipal solid waste;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “segregation” means separation of municipal solid wastes into organic, inorganic, re-cyclable and hazardous wastes;

(f) “waste-energy plants” means plants where waste is treated using different techniques to produce any form of energy; and

(g) “waste generating unit” means any entity, household or and large manufacturing facility where waste is generated and which require waste disposal.

**3.** (1) It shall be the duty of every waste generating unit to segregate waste before its disposal.

Duty of waste generating unit and large manufacturing facility.

(2) In case of large manufacturing facility the owner or the in-charge of the facility shall, as the case may be—

(a) ensure that the waste is segregated, re-used and re-cycled at source; and

(b) undertake transportation of re-cyclable waste to waste-energy plants and the non-re-cyclable waste to the notified landfills, as the case may be.

(3) The waste generating units shall be liable to pay for the waste generated by them that is sent to the landfills on the basis of the weight of the waste.

**4.** It shall be the duty of the Municipal authority to—

Duty of the municipal authority.

(a) ensure collection of segregated waste from the waste generating units;

(b) ensure that the segregated waste collected and transported is not mixed with any other waste or any material, to the extent that mixing would hamper its re-use, re-cycle, further treatment or its use in waste to energy plant;

(c) undertake treatment of organic waste through bio-degradation such as vermin composting, mechanical composting by window method or any other suitable method as approved by the Central Pollution Control Board or the State Pollution Control Board, as the case may be; and

(d) transport the non-re-cyclable waste to the notified landfills.

**5.** Whoever violates the provisions of this Act shall be punished with imprisonment for a term which may extend up to six months and fine which may extend up to ten thousand rupees.

Penalty.

**6.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the State Governments for carrying out the purposes of this Act.

Central Government to provide requisite sums.

**7.** The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Act not in derogation of any other law.

Power to make  
rules.

**8. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

A large amount of waste is generated in our country every day. It is estimated that on an average 0.1 million tonnes of municipal solid waste is generated every day, resulting in approximately 36.5 million tonnes annually.

The waste in majority is composed of plastics, metals, paper, food, glass, etc. Presently, majority of the waste is sent to the landfills with only a portion being used in waste-energy plants or re-cycled or reused. This has an impact on both the environment and the economy. The huge amount of waste in the landfills causes smouldering releasing large amounts of harmful methane gas in the air. The landfills not only mar the beauty of a city but can also be the breeding grounds for diseases. Waste can instead be used as an alternative to the depleting fossil fuels which would, in turn, help in keeping the environment safe and clean.

The economic impact of effective waste management techniques employed either by the municipal corporations or by the aid of private organizations, has been observed in different cities. For example, in Pune, the re-cyclable or reusable goods are sold by the waste pickers earning them extra income. In Chennai, the waste is used in a biogas plant to generate electricity. Proper handling and disposal of municipal waste could result in generating employment and serve as an opportunity for entrepreneurs in the waste-energy sector.

The Bill seeks to ensure that the waste from landfills is recycled, reused or used as input to waste-energy projects. By making it as a law, the Government can ensure that the citizens of the country are duty bound to contribute towards cleanliness and also effective waste management would become a contributing part of the economy.

Hence this Bill.

NEW DELHI;  
*February 9, 2016.*

KONDA VISHWESHWAR REDDY

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for certain steps to be taken by the municipal authorities for collection of segregated municipal solid waste, transportation of re-cyclable waste to waste-energy plants and non-recyclable wastes to the notified landfills. Clause 6 provides that the Central Government shall provide adequate funds for carrying out the purposes of this Act. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two hundred crores is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 22 OF 2016

*A Bill to provide for reservation for persons belonging to the Scheduled Castes and the Scheduled Tribes in private sector and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation for the Scheduled Castes and the Scheduled Tribes in Private Sector Act, 2016. Short title and extent.

(2) It extends to the whole of India.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) “private sector” means any organisation or establishment which is owned purely by private individual or corporation or limited company or any organisation in which the Government of India or a State has no financial interest and wherein not less than one hundred persons are employed;

(b) “prescribed” means prescribed by rules made under this Act; and

(c) ‘reservation’ means reservation in the matter of appointments and promotion in services in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes, in private sector.

Government to encourage private sector to make provision for reservation.

**3.** (1) The Central Government shall give due encouragement to private sector to make provisions for reservation in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes in their organisations in proportion to the population of the Scheduled Castes and the Scheduled Tribes in the State, wherein such private organisation has its headquarters.

(2) The encouragement as provided in sub-section (1) may include—

(i) special concessions under various existing Central schemes; and

(ii) loans from nationalized banks at reduced rate of interest in such manner as may be prescribed.

Annual report.

**4.** The Central Government shall cause to be laid an annual report before both Houses of Parliament about the action taken under this Act.

Power to make rules.

**5.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

At present, reservation is available in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes in services under the State. The only category in which the persons belonging to the Scheduled Castes and the Scheduled Tribes were once proportionately over-represented was Group 'D' posts, however, due to outsourcing policy of the Government and hiring of service on contract basis particularly in Group 'D' post work, the number of persons belonging to the Scheduled Castes and the Scheduled Tribes in Government jobs has considerably come down. Hence, the number of opportunities available for the persons belonging to the Scheduled Castes and the Scheduled Tribes has been reduced.

After liberalisation and privatisation, the number of jobs in the private sector has increased considerably. However, the presence of the persons belonging to the Scheduled Castes and the Scheduled Tribes in such private sector jobs is almost negligible. They are not a part of the share or stock market, private sector banks, media, private education sector, information technology, telecommunication and other related fields where the representations of the persons belonging to the Scheduled Castes and the Scheduled Tribes is negligible. The Government must make concessions and special schemes to encourage the private sector to open up job avenues in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes by providing reservation in the matter of appointments and promotion in services in their establishments.

Hence this Bill.

NEW DELHI;  
February 9, 2016.

UDIT RAJ

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matter of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 42 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 366 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

Amendment of  
article 366.

‘(5A) “consultation” means the action or process of formally consulting or discussing with another in a merely consultative, advisory and non-binding manner.’.

## STATEMENT OF OBJECTS AND REASONS

Certain terms in the Constitution are not defined leading to leeway in interpretation causing substantial questions of law. Such ambiguity in the law has contributed to the question regarding the appointment of judges to the higher judiciary in India. It is for this reason that the term “consultation” requires to be defined in the Constitution by way of amendment of article 366 that defines certain terms used in the Constitution. Such definition will not only remove ambiguity in the definition of the term, but restore the constitutional scheme in the appointment of higher judges by restoring the role of the Executive Branch in the appointment process of judges and reaffirming the primacy of Parliament in the domain of legislation in the nation that has been weakened by judicial overreach in the domain of judicial appointments.

The term “consultation” appears in a number of articles in the Constitution, mainly in article 124 and its analogous article 217 and articles 127 and 222. Herein the matters under question allow for the consultation of other parties by the President of India or the Governor of the State, as the case may be, in the discharge of his duties. The President and Governor are bound by the opinions of others as delivered explicitly by the Constitution under article 103(2) and its analogous article 192(2).

Articles 103(2) and its analogous article 192(2) incorporate the wording “the President (Governor) shall obtain the opinion of the Election Commission and shall act according to such opinion”. Hence indicating the intent of the framers of the Constitution to bind the President and the Governor’s actions to the advice they have received on the matter detailed in the relevant articles. While exercising the powers under the articles 103(2) and 192(2) the President and the Governor respectively are not required to act on the aid and advice of the respective Council of Ministers.

Article 124 and its analogous article 217 and articles 127, 143, 146(1) and 222 of the Constitution utilise the wording of “consultation”, hence indicating that the framers of the Constitution did not have the intention to bind the President and the Governor’s actions to the advice they have received on the matter detailed in the relevant articles. They sought only to ensure that the President or Governor appropriately consulted the relevant authorities or institutions in discharging their duties, therefore undertaking the action to the best of their knowledge, even allowing them to disregard the recommendations received during the consultation process. This is essential as it ensures that the highest executive functionary of the nation and states respectively, has flexibility in the discharge of duties of his office, while ensuring that he received sound non-binding guidance on matters of constitutional and national importance and ensuring that all stakeholders were represented in the consultation process. The term “consultation” mentioned in the Constitution should be given the same meaning homogeneously throughout the Constitution and different meaning cannot be assigned for different provisions of the Constitution.

The judicial pronouncements with regards to article 124 made the recommendations on the President binding, which is not in keeping with the constitutional scheme. Similar judicial pronouncements can alter the meaning of other articles of the Constitution, risking the constitutional fabric and framework of the nation. Similar arguments can be utilised with respect to article 143, making the court’s recommendations to the President binding on questions of law, not allowing the President to exercise his authority with the flexibility accorded to him and disturbing the constitutional scheme. Similarly under article 146(1) the recommendations of the Union Public Service Commission may be made binding upon the President for the appointment of officers and servants to the Supreme Court and analogously for the State, hence going against the constitutional scheme.



As detailed above there is a requirement for defining the term “consultation”, to ensure that the constitutional scheme is not disturbed due to ambiguity of the definition of the term. This will also ensure that the principle of separation of powers, while not enumerated in the Constitution, but upon which it is based, will be maintained. This will also ensure that the appointment process for higher judiciary in the nation is maintained and kept in sync with the constitutional scheme and constitutional text as envisioned by the framers of the Constitution. The need for the same has been elaborated upon below.

The Judges of the Supreme Court are appointed under clause (2) of article 124 of the Constitution and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President of India. The *Ad-hoc* Judges and retired Judges of the Supreme Court are appointed under clause (1) of article 127 and article 128 of the Constitution respectively. The appointment of Additional Judges and Acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A of the Constitution. The transfer of Judges from one High Court to another High Court is made by the President of India after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution.

The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion given in the year 1998 in the Third Judges' case on a reference being made to the Supreme Court by the then President of India under his constitutional powers, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of “consultation” as “concurrence”. Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated known as the “*collegium system*”, and is presently being followed for such appointments. Pertinently, the said collegium system does not find mention either in the original Constitution or in any successive amendments thereto. This was in direct contravention of the Court's earlier decision in the matter. In the case of S.P. Gupta (December 30, 1981) also known as the “First Judges Case”, it declared that the “primacy” of the recommendations of the Chief Justice of India to the President can be refused for cogent reasons. This had brought a paradigm shift in favour of the executive having primacy over the judiciary in judicial appointments for the next twelve years before the Supreme Court overturned this in the Second and Third Judges' case.

In a democratic set up, the legitimacy of every constitutional institution including the supreme judicial authority must be traced to the will and consent of the people, directly or indirectly. The bearers to public offices in all other institutions in the country are appointed either by an executive authority that is accountable to the people or by a mechanism involving the executive and legislature by law. No institution in a democracy is entitled under the constitutional provisions to abrogate itself any power of appointing its own successors. An unelected institution, however exalted, appointing its own peers and successors is smeared with the questions regarding democratic accountability. Since the pronouncements made by the judges have a strong and deep impact on the public at large, it is necessary that the judicial appointments are not made unilaterally by the incumbents of the said institutions. Transparency and objectivity in appointment of judges of the Supreme Court and the High Courts is also *sine qua non*, to ensure the credibility of the judiciary and the will of the people.

It is important to protect the credibility of the judiciary, an institution held in high regard by the citizens of India and the other organs of the State. This credibility must not be tarnished and a credible and respected Supreme Court alone can safeguard the Constitution and the nation and effectively reconcile justice, constitution, law, harmony and the public good. Any supposed unconstitutional usurpation of power by any constituent of democracy will only go to adversely affect the entire democratic set up. Any apprehension or suspicion that any input by the executive and/or legislature would deconstruct the independence of

judiciary and the attempts to completely exclude the executive and/or legislature from the process of appointing judges would be wholly illogical and inconsistent with the foundations of the theory of democracy and a doctrinal heresy.

For achieving the goals as set out above, for ensuring the continued credibility and independence of judiciary and for reinforcing the faith of general public in the judicial set up, the proposed Bill seeks to restore the Constitutional scheme as established by the text of the constitution and not by judicial usurpation of constitutional amendment, while also defining the key term of "consultation" within the Constitution, removing ambiguity while subsequently eliminating substantial question of law regarding the term.

Hence this Bill.

NEW DELHI;  
*February 9, 2016.*

P.P. CHAUDHARY

## BILL NO. 29 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In article 370 of the Constitution, in clause (1), sub-clause (a) shall be omitted.

Amendment of  
article 370.

## STATEMENT OF OBJECTS AND REASONS

Article 370 of the Constitution provides for temporary provisions with respect to the State of Jammu and Kashmir. This article was drafted in Part XXI of the Constitution, which is in nature of temporary, transitional and special provisions in relation to the State of Jammu and Kashmir.

Article 370 (1)(a) refers to article 238 of the Constitution of India which has been repealed. This was to enable special autonomous status to the State of Jammu and Kashmir by removing the application of article 238 in respect of the State of Jammu and Kashmir.

However, article 238 of the Constitution was repealed in 1956 after the “Part B” States were removed and included as ordinary States after the Seventh Constitutional Amendment in 1956. Part B States were former Princely States or covenanting States governed by “Raj Pramukhs”. These were including States of Hyderabad, Madhya Bharat, Cochin, Vindhya Pradesh and Jammu and Kashmir. Jammu and Kashmir although a Part B State then was given a special status under article 370 of the Constitution.

In light of omission of article 238 by the Seventh Constitutional Amendment in 1956 the continued mention of the same in article 370 is an anomaly and hence needs to be suitably amended in order to ensure conformity with the entirety of the Constitution.

Hence this Bill.

NEW DELHI;  
*February 9, 2016.*

P.P. CHAUDHARY

## BILL NO. 25 OF 2016

*A Bill further to amend the Administrative Tribunals Act, 1985.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Administrative Tribunals (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as Central Government may, by notification in the official Gazette, appoint.

13 of 1985.

2. In the Administrative Tribunals Act, 1985, in section 6, in sub-section (1), for the words "unless he is, or has been, a judge of a High Court" the words, "unless he is a judge of a High Court or an advocate for at least ten years in a High Court or two or more such Courts in succession" shall be substituted.

Amendment  
of section 6.

## STATEMENT OF OBJECTS AND REASONS

The concept of separation of powers was proposed by Montesquieu in the sixteenth century and the concept of equal opportunity has been highlighted by the makers of the Constitution through various provisions. These two ideas are required to be incorporated in the Administrative Tribunals Act, 1985 which provides for adjudication or trial by Administrative Tribunals.

The executive, the legislature and the judiciary are known as the three pillars of democracy. It is believed that the three should function independently without major intervention of each other and that would ensure that the respective duties are discharged in the best possible manner. However, at the same time, there should be sufficient check and balance on these three wings for an effective Government, so as to avoid one of them from becoming totalitarian in nature. In India, the check and balance system has been working effectively. However, it has come to notice that some of the Tribunals and Commissions have exclusive provisions where only retired judges of Supreme Court or High Courts are being appointed by the executive. This lies absolutely against the spirit of the Constitution.

Therefore, the proposed amendment is put forth to remove the provision for appointment of retired judges as Chairman and members. Thus only a sitting judge of Supreme Court or High Courts, as the case may be, can be appointed to such post if that judge wishes to leave his office of Judge voluntarily and assents to join Tribunal or Commission.

The Bill also proposes to insert provisions wherein an advocate with not less than ten years of practice becomes eligible to be appointed as the Chairman of the Tribunal. The rationale of such could be found in our Constitution which provides for appointment of advocates with certain years of practice as Judge of Supreme Court or High Court. The same should be applied for Tribunals. This will facilitate the speedy disposal of the cases pending in Tribunals because the positions in the Tribunal shall not remain vacant for long. This also captures the idea of providing equal opportunity to people with equal experience and eligibility.

The proposed amendment seeks to ensure that the doctrine of Checks and Balances and the Right to Equality is maintained.

Hence this Bill.

NEW DELHI;  
*February 10, 2016.*

DUSHYANT CHAUTALA

## BILL NO. 27 OF 2016

*A Bill further to amend the Right to Information Act, 2005.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Right to Information (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as Central Government may, by notification in the official Gazette, appoint.

22 of 2005.

**2.** In the Right to Information Act, 2005, in section 19, after sub-section (6), the following sub-section shall be inserted, namely:—

Amendment  
of section 19.

"(6A) The second appeal under sub-section (3) shall be disposed of within ninety days of the receipt of the appeal or within such extended period not exceeding a total of one hundred and twenty days from the date of filing thereof, as the case may be, for reasons to be recorded in writing."

## STATEMENT OF OBJECTS AND REASONS

The Right to Information Act, 2005 is one of the highly-acclaimed welfare legislations. The Act seeks to secure for citizens access to information, promote transparency and accountability in the working of the Government, contain corruption and make out democracy work for the people in real sense. To achieve such objectives, it is important that information is being provided in a time bound manner.

Though the Act specifies time limit for providing information in case of first appeal by the Public Information Officers, no such time limit has been set for second appeal before the Commission. As per the data available, as on 26 January, 2016, at the Central Information Commission, a total of 27682 appeals are pending. Similar will be the case for various State Information Commissions. This makes the objectives of the Act defeated.

The proposed amendment seeks to put a time limit of ninety days for disposal of second appeals filed under sub-section (3) of section 19 of the Act. The proposed amendment also ensures that a person is not deprived of his legal right for an unreasonable time period. Moreover, one cannot ignore the plausibility of information losing its relevance over a period of time.

Thus, the proposed amendment provides that the information is disclosed within a specified time period so as to maintain its relevance. Moreover, a time bound disposal of second appeal will create a sense of urgency and compel the Commissions to fill up the vacancies in the offices of Chief Information Commissioner and State Information Commissioners. Thus, to fill a gap in the parent Act, the present amendment is being proposed.

Hence this Bill.

NEW DELHI;

DUSHYANT CHAUTALA

*February 10, 2016.*



## BILL NO. 63 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For article 340 of the Constitution, the following article shall be substituted, namely:—

Substitution of  
new article for  
article 340.

**"340.** (1) There shall be a Commission for the Backward Classes to be known as the National Commission for the Backward Classes.

National  
Commission  
for Backward  
Classes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the Backward Classes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Backward Classes;

(c) to participate and advise on the planning process of socio-economic development of the Backward Classes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Backward Classes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Backward Classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Backward Classes."

## STATEMENT OF OBJECTS AND REASONS

India is a diverse country with different castes, religions and groups. In spite of this diversity, India is united and one of the reasons for such unity is that the framers of the Constitution have taken care of interests of all citizens irrespective of caste, colour and creed while making the Constitution. But, unfortunately, Backward Classes who constitute more than fifty per cent. of the total population are not getting their due share in the absence of appropriate provisions in the Constitution.

There is no doubt that article 340 of the Constitution deals with appointment of Commission to look into the conditions of Backward Classes, provide grants by Union and States and also talks about laying reports in Parliament, etc. But, it does not deal with the core aspects of the Backward Classes.

The existing Commission does not have the jurisdiction to investigate and monitor all matters relating to the safeguards provided for the Backward Classes under the Commission or under any other law; it cannot inquire into specific complaints with respect to the deprivation of rights and safeguards; it cannot participate in the planning process of socio-economic development of Backward Classes and advise the State or the Central Government; the present Commission does not have the powers of a Civil Court as it has been in the case of the Scheduled Castes and the Scheduled Tribes Commissions and it is not mandatory on the part of Union or State Governments to consult the present Commission on major policy matters relating to the Backward Classes, apart from other deficiencies in the existing Commission.

Secondly, in pursuance of various representations and requests made, Parliamentary Committee for Welfare of Backward Classes, in its First Report, recommended for conferring constitutional status on the National Commission for Backward Classes at par with National Commission for Scheduled Castes and the National Commission for Scheduled Tribes to deal with various grievances and to undertake welfare measures.

Thirdly, some States classified Backward Classes on the basis of castes or communities into two or three groups such as Backward Class and most Backward Class. Some other States classified Backward Classes into A, B, C, D Groups as per their status and occupations. But, there is no such classification made in the Central List of Other Backward Classes.

In view of the above and in the absence of constitutional status to the National Commission for Backward Classes and in the absence of an effective mechanism or forum with constitutional status to deal with grievances and various other issues relating to Backward Classes, the proposed Bill seeks to amend the Constitution to confer constitutional status on the National Commission for Backward Classes.

Hence this Bill.

NEW DELHI;  
*February 10, 2015.*

JAYADEV GALLA

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for setting up of a National Commission for Backward Classes. It also provides for appointment of Chairperson, Vice-Chairperson and Members of the Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten crore will be involved.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

## BILL NO. 26 OF 2016

*A Bill further to amend the Code of Criminal Procedure, 1973.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2016.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1974.

2. In the Code of Criminal Procedure, 1973, in section 260, sub-section (1), after clause (v), the following clause shall be inserted, namely:—

Amendment of  
section 260.

“(va) offences under sections 499 and 500 of the Indian Penal Code (45 of 1860) provided the offence of defamation is alleged to have been committed by either a newspaper or a cable operator or both.

*Explanation.*— The expressions “newspaper” and “cable operator” shall have the same meanings as assigned to them in “The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and the Cable Television Networks (Regulation) Act, 1995, respectively.”.

45 of 1955.  
7 of 1995.

## STATEMENT OF OBJECTS AND REASONS

It has been observed that instances of publishing defamatory statements by newspaper, media and publishing houses have increased considerably due to two main reasons, first being lack of responsible attitude and the second being cases of publications created by social media. Thus, cases of defamation have been increasing day by day.

Any person who files a criminal complaint for defamation against any media or publishing house has to go through the whole lengthy procedure as given in the Code of Criminal Procedure and due to this restoration of reputation becomes a time taking and impossible task.

Therefore, the amendment is needed to put the offence of defamation especially when the accused is media or publishing house within the ambit of section 260 of the Code of Criminal Procedure, 1973 which deals with summary trials and wherein the court has been vested with the power to try offences in a speedy manner.

Hence this Bill.

NEW DELHI;  
*February* 11, 2016.

DUSHYANT CHAUTALA

## BILL NO. 60 OF 2016

*A Bill to provide for the establishment of a Corporation for the welfare and advancement of persons belonging to economically weaker class and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Economically Weaker Class Corporation Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(i) “appropriate Government” means in case of a State, the Government of that State and in all other cases, the Central Government;

(ii) “Corporation” means the Economically Weaker Class Corporation established under section 3;

(iii) “economically weaker class” means any household except those belonging to the Scheduled Castes or the Scheduled Tribes whose annual income from all sources does not exceed rupees two lakh or such amount, not less than rupees two lakh, as the Central Government may, from time to time, notify; and

(iv) “prescribed” means prescribed by rules made under this Act.

Establishment  
of  
Economically  
Weaker Class  
Corporation.

**3.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Corporation to be known as the Economically Weaker Class Corporation.

(2) The Corporation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of Directors which may exercise all such powers and do all such acts as may be exercised or done by the Corporation under this Act.

(4) The Board of Directors shall consist of—

(a) a Chairperson; and

(b) six Directors,

to be appointed by the Central Government in such manner as may be prescribed.

(5) The salaries and allowances payable to and other terms and conditions of service of the Chairperson and other Directors of the Corporation shall be such as may be prescribed.

(6) The Corporation shall have its office at such place as may be prescribed.

(7) The Corporation shall, in consultation with the Central Government, appoint a Managing Director and such number of officers and staff, as it may deem necessary for its efficient functioning.

(8) The salaries and allowances payable to and other terms and conditions of service of the Chairperson, Managing Director and other Officers and staff of the Corporation shall be such as may be prescribed.

Fund of the  
Corporation.

**4.** (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Economically Weaker Class Fund with an initial corpus of rupees five thousand crore for carrying out the purposes of this Act.

(2) The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, credit such sums to the Fund as may be necessary for carrying out the purposes of this Act.

(3) The fund shall be administered by the Chairperson of the Corporation or by any Director of the Corporation authorized by him in this behalf.

Functions of  
the  
Corporation.

**5.** The Corporation shall—

(i) in consultation with the State Governments, identify the families belonging to economically weaker class by evolving such methods, as it may deem fit;

(ii) maintain a register of families belonging to economically weaker class;



(iii) provide the following facilities to the families belonging to economically weaker class—

- (a) free educational facilities to the children;
- (b) educational loan for higher education at concessional rate of interest;
- (c) opportunities for employment and self employment;
- (d) free healthcare facilities;
- (e) financial assistance for setting up of self-employment units;
- (f) housing facilities at subsidised rates; and
- (g) provision of supply of essential commodities of daily use at subsidised rates.

(iv) recommend to the Central Government the welfare measures for overall development of families belonging to the economically weaker class.

(v) recommend to the Central Government the quantum of reservation of seats in higher educational institutions including technical and professional institutions in favour of persons belonging to the economically weaker class:

Provided that while recommending the quantum of reservation, the Corporation shall ensure that it bears at least the same ratio as the population of economically weaker class bears to the total population of the country.

(vi) recommend to the Central Government the quantum of reservation of posts and services under the Central Government in favour of persons belonging to the economically weaker class:

Provided that the quantum of reservation recommended by the Corporation shall not be less than ten per cent. of the total number of the posts and services under the Central Government.

**6. (1)** It shall be the duty of the Central Government to implement the recommendations of the Corporation.

Recommendations of the Corporation to be implemented by the Central Government.

(2) The implementation of recommendations of the Corporation shall have effect notwithstanding anything contained to the contrary in any judgement, decree or order of any Court or in any other law for the time being in force.

**7. (1)** The Corporation shall prepare, in such form and manner, as may be prescribed, an annual report giving a true and full account of its activities during the previous year and submit it to the Central Government.

Annual Report.

(2) The Central Government shall cause to be laid before each House of Parliament the report submitted to it under sub-section (1).

**8.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with any of the matters dealt with in this Act.

Act to be in addition to any other law for the time being in force.

**9. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

A considerable chunk of our society is living below poverty line. They are deprived of adequate access to the basic needs of life such as health, education, housing, food security, employment etc. These persons belong to vulnerable, disadvantaged and marginalised section of the society and are deprived of enjoying their basic rights. Ours is a welfare State. It is the duty of the welfare State to ensure overall development of all sections of society. Successive Governments have taken steps to address the grievances of persons living below poverty line from time to time. However, till date there has been no consensus on defining and measuring the poverty. Therefore, welfare measures to provide easy access to education, food, housing, security and employment to the persons belonging to economically weaker class of the society in a targetted manner are not being implemented effectively.

The Bill proposes to establish a Corporation to:—

- (i) identify the persons belonging to economically weaker class;
- (ii) maintain a register of person belonging to economically weaker class;
- (iii) provide certain facilities like financial assistance, housing, educational loan, healthcare facilities to the persons belonging to the economically weaker class; and
- (iv) suggest measures to the Central Government for overall development of persons belonging to the economically weaker class.

The Bill also provides for reservation in posts and services under the State and in admission to educational institutions in favour of persons belonging to economically weaker class on the recommendations of the Corporation.

Hence this Bill.

NEW DELHI;  
February 11, 2016.

RAMA DEVI

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the Economically Weaker Class Corporation. Clause 4 provides for constitution of Economically Weaker Class Fund with an initial corpus of rupees five thousand crore. It also provides for supply of adequate funds by the Central Government from time to time for carrying out the purposes of this Act. Clause 5 provides for identification and maintaining of a register of families belonging to economically weaker class. It also provides for certain facilities like free education to the children, opportunities for employment and self-employment, financial assistance, educational loans at subsidised rates of interest, housing, etc. to the persons belonging to the economically weaker sections. Clause 6 provides for implementation of the recommendations of Corporation by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten thousand crore will be involved per annum.

A non-recurring expenditure of about rupees six thousand crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 52 OF 2016

*A Bill to secure rapid, accelerated and overall development of poverty stricken and backward regions of the country by establishing an autonomous Authority for assured and speedy development of such regions in a planned manner and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Poverty Stricken and Backward Regions (Development) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Authority” means the Poverty Stricken and Backward Regions Development Authority established under section 4;

(b) “poverty stricken and backward regions” means the areas and regions which are economically, socially, educationally and industrially lagging behind from the rest of the country and notified by the Central Government under section 3; and

(c) “prescribed” means prescribed by rules made under this Act.

3. (1) The Central Government shall, within one year from the coming into force of this Act, in consultation with the State Governments and the Union territory Administrations, identify poverty stricken and backward regions of the country in such manner as it may deem fit.

Identification and notification of Poverty Stricken and backward regions.

(2) The regions identified as poverty stricken and backward regions of the country under sub-section (1) shall be notified by the Central Government.

4. (1) The Central Government shall, within one month of the notification of poverty stricken and backward regions of the country, establish an Authority to be known as the Poverty Stricken and Backward Regions Development Authority for carrying out the purposes of this Act.

Establishment of the Poverty Stricken and Backward Regions Development Authority.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Sheohar in the State of Bihar and the Authority may, with the consent of the Central Government, establish its offices at other places in the country.

5. The Authority shall consist of

— Composition of the Authority.

Composition of the Authority.

(a) the Prime Minister,

— *ex-officio* Chairperson;

(b) the Deputy Chairman of the NITI Aayog,

— Vice-Chairperson;

(c) five members of Parliament representing the backward regions, of whom three shall be from Lok Sabha and two from Rajya Sabha, to be nominated by the Presiding Officers of the respective Houses,

— members;

(d) one official each, not below the rank of Joint Secretary from the Planning Commission and Ministries of Agriculture, Rural Development, Industry, Finance, Railways, Road Transport and Highways, Human Resource Development, Water Resources, River Development and Ganga Rajuvenation and Power of the Union Government,

— members; and

(e) one official each from every State having poverty stricken and backward regions to represent the Government of that State,

— members.

6. (1) The Authority shall follow such procedure for holding its meetings as may be prescribed.

Procedure to be followed by the Authority.

(2) No act done or proceeding taken by the Authority under this Act shall be questioned on the ground merely of,—

(a) the existence of any vacancy in, or defect in the constitution of the Authority, or

(b) any omission, defect or irregularity not affecting the merits of the case.

Secretariat of the Authority.

**7. (1)** The Authority shall have a Secretariat consisting of such officers and employees as may be prescribed.

(2) The salary and allowances payable to and other terms and conditions of service of officers and employees shall be such as may be prescribed.

Central Government to provide adequate funds.

**8.** The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Authority for developmental works to be undertaken by it and for its administrative expenses.

Authority to ensure overall development of poverty stricken and backward regions.

**9. (1)** The Authority shall take such steps in order to ensure rapid and accelerated development of poverty stricken and backward regions of the country, as it may deem necessary and expedient to do so for the overall development of such regions.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall—

(i) encourage investment in poverty stricken and backward regions for industrial growth;

(ii) develop infrastructure such as railways, roads and communication network;

(iii) develop irrigation facilities by constructing wells, bore wells and canals and other traditional methods of water harvesting;

(iv) promote agriculture and agro-based industries;

(v) augment drinking water facilities;

(vi) install power projects based on conventional and non-conventional sources of energy; and

(vii) encourage poultry farming, piggery, livestock, dairy products, cottage and village industries, network of public distribution system, health services, family welfare, education, vocational training, tourism and such other activities as the Authority may deem necessary.

Annual Report of the Authority.

**10. (1)** The Authority shall prepare and submit to the President of India an annual report, in such form and manner, as may be prescribed, of its development activities in the poverty stricken and backward regions of the country.

(2) The President shall, after the receipt of the report, cause it to be laid before each House of Parliament.

Power to remove difficulty.

**11.** If any, difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement to this Act.

Act not in derogation of other laws.  
Power to make rules.

**12.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

**13. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The economic disparity amongst various regions in the country has not only persisted but has also increased since the last seven decades of independence. This disparity has resulted in extreme poverty, hunger and backwardness. Even the Constitutional obligations set forth by the founding fathers of the Constitution are yet to be fulfilled. The various regions of the State of Bihar, specially the Sheohar district and the adjoining areas are most backward which requires immediate attention by the Government.

Development of such regions should be our prime concern. Special steps should be taken at the National and State levels to secure rapid and accelerated development of the poverty stricken and backward regions in the areas of education, economy, agriculture and other fields to bring them at par with other developed regions of the country. This may be achieved by establishing an autonomous Authority for the purpose.

Hence this Bill.

NEW DELHI;  
*February* 11, 2016.

RAMA DEVI

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a Poverty Stricken and Backward Regions Development Authority. Clause 7 provides for a Secretariat with such number of officers and employees for the Authority as may be prescribed. Clause 8 provides that the Central Government shall provide adequate funds to the Authority. Clause 9 provides that the Authority shall take steps to encourage rapid and accelerated development of poverty stricken and backward regions of the country. The Bill, therefore, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure to the tune of rupees one thousand crore will be involved per annum.

A non-recurring expenditure to the tune of rupees one hundred crore will also be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.



## BILL NO. 35 OF 2016

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2016. Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new section for section 3.

**2.** In the Representation of the People Act, 1951 (hereinafter referred to as principal Act), for section 3, the following section shall be substituted, namely:—

Qualification for membership of the Council of States.

“3. A person shall not be qualified to be chosen as a representative of any State or Union territory in the Council of States unless he is an elector from a Parliamentary constituency in India and holds a graduate or equivalent degree from any recognised University:

Provided that in the case of a woman candidate or a candidate belonging to the Scheduled Caste, the minimum educational qualification shall be senior secondary school pass or equivalent qualification:

Provided further that in the case of a woman candidate belonging to the Scheduled Caste, the minimum educational qualification shall be secondary school pass.”.

Amendment of section 4.

**3.** In section 4 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(e) he holds a graduate or equivalent degree from any recognised University:

Provided that in the case of woman candidate or a candidate belonging to the Scheduled Caste, the minimum educational qualification shall be senior secondary school pass or equivalent qualification:

Provided further that in case of a woman candidate belonging to the Scheduled Castes, the minimum educational qualification shall be secondary school pass.”.

Amendment of section 5.

**4.** In section 5 of the principal Act, after clause (c) the following clause shall be inserted, namely:—

“(d) he holds a senior secondary school pass or equivalent certificate:

Provided that in the case of a woman candidate or a candidate belonging to the Scheduled Caste, the minimum educational qualification shall be secondary school pass:

Provided further that in case of a woman candidate belonging to the Scheduled Caste, the minimum educational qualification shall be eighth class pass.”.

Amendment of section 6.

**5.** In section 6 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State unless he holds senior secondary school pass or equivalent certificate:

Provided that in the case of a woman candidate or a candidate belonging to the Scheduled Caste, the minimum educational qualification shall be secondary school pass:

Provided further that in the case of a woman candidate belonging to the Scheduled Caste, the minimum educational qualification shall be eighth class pass.”.

## STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections of the Houses of Parliament and the House or Houses of the Legislature of each State; the qualifications and disqualifications for membership of those Houses; the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

In December 2015, Supreme Court in *Rajbala & Others Vs. State of Haryana & Others* upheld the constitutional validity of an amendment to Panchayati Raj Act, 1994, which makes education must for Panchayat Candidates.

Currently, education is a basic necessity for everyone. It is urgently required that as a representative of their constituencies, as a Member of Parliament or as a Member of State Legislature, a candidate must possess certain educational qualification. It will assist law and policy makers in performing their task efficiently in the legislative and supervisory roles.

In the first Lok Sabha, only 58 *per cent.* of members had educational qualification of graduation or above. While in the Fourteenth Lok Sabha, 82 *per cent.* of its members have educational qualification of graduation and above. In the present Lok Sabha, 75 *per cent.* of the Members of Parliament have graduation and above educational qualification.

In view of the above, the Bill seeks to amend the Representation of the People Act, 1951 with a view to providing minimum educational qualification:—

(i) for Members of Parliament graduation or equivalent and above, in the case of a candidate belonging to the Scheduled Caste or woman, senior secondary school pass and above and in the case of woman candidate from the Scheduled Caste secondary pass and above; and

(ii) for Member of Legislative Assemblies and Councils, senior secondary school pass or equivalent and above, in the case of a candidate belonging to the Scheduled Caste or a woman, secondary school pass or equivalent and above, and in the case of a woman belonging to the Scheduled Caste eighth class pass or above.

to ensure that educated and informed persons are elected as a representative to the House of Parliament and State Legislative Assemblies or Councils, as the case may be.

Hence this Bill.

NEW DELHI;  
February 11, 2016.

RAJENDRA AGRAWAL

## BILL NO. 54 OF 2016

*A Bill further to amend the Prisons Act, 1894.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called as the Prisons (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

Amendment  
of section 3.

2. In the Prisons Act, 1894, (hereinafter referred to as the principal Act), in section 3,—

9 of 1894.

(i) after clause (8), the following clause shall be inserted, namely:—

“(8A) "prescribed" means prescribed by rules made by the State Government under this Act.”.

(ii) after clause (9) the following clauses shall be added at the end, namely:—

“(10) "rigorous imprisonment" means imprisonment combined with manual

hard work for not less than eleven hours in a day in such manner as may be prescribed;

(11) "simple imprisonment" means imprisonment with normal or routine work for not more than seven hours in a day in such manner as may be prescribed."

3. Section 9 of the principal Act shall be re-numbered as sub-section (1), and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 9.

"(2) No officer or other employee of a prison shall provide or make available prohibited articles relating to means of communication like mobile phones, wireless, i-phones, laptops or other modern digital means of communication to any prisoner."

4. In Chapter IV of the principal Act, after section 26, the following section shall be inserted, namely:—

Insertion of new section 26A.

"26A. (1) In case of a pregnant prisoner, her diet and work allocation shall be determined as per medical advice.

Special Provisions with respect to pregnant prisoners.

(2) A pregnant prisoner shall be entitled to grant of conditional parole for thirty days from the expected date of delivery or thirty days from the date of delivery if the delivery takes place while she is in prison."

5. In section 29 of the principal Act, the following proviso shall be added at the end, namely:—

Amendment of section 29.

"Provided that the Jailor shall ensure that the cell used for solitary confinement is maintained with basic hygiene, light and air."

6. In Chapter VIII of the principal Act, after section 39, the following section shall be inserted, namely:—

Amendment of section 39.

"39A. The Jail authorities shall be responsible to ensure basic hygiene in the jail premises and precincts of a prison by putting the prisoners on the job of maintaining hygiene and in the absence or unavailability of prisoners, by appointing temporary workers in such manner as may be prescribed."

Maintenance of Hygiene.

7. In Chapter IX of the principal Act, after section 41, the following section shall be inserted, namely:—

Amendment of section 41.

"41A. No visitor shall take inside or be permitted to take inside a prison any prohibited article relating to means of communication like mobile phones, wireless, i-phones, laptops or other modern digital means of communication with a view to provide or make available such article to any prisoner."

8. In Chapter XII of the principal Act, after section 58, the following sections shall be inserted namely:—

Amendment of Chapter XII.

"58A. The State Governments shall establish separate prisons to keep habitual and hardcore offenders separately from the first time offenders and the offenders convicted for lesser crimes.

Establishment of separate prisons.

58B. The Superintendent or other officer of prison shall inspect and review periodically on a regular basis the condition of prison and submit a report in this regard to State Government in such form and manner as may be prescribed.

Review and inspection of prisons.

58C. The Superintendent shall take all necessary steps to ensure that prisoners do not indulge in mental or physical conflict either individually or in groups.

Measures to prevent mental and physical conflict.

Prisoners not to have access to electronic equipments or digital means of communication.

58D. (1) The officer of a prison shall ensure that prisoners of cybercrimes, treason or anti-national activities do not have access to any electronic equipment or digital means of communication.

(2) The prisoners referred to in sub-section (1) shall not be entitled to the facilities referred to in sections 58E and 58F.

Skill training in Prisons.

58E. The State Government shall provide skill training including computer classes, tailoring, carpentry, cooking, gardening, and language classes, in such manner as may be prescribed, to the prisoners.

Workshops and seminars.

58F. (1) The officers of a prison shall conduct workshops and seminars on such subjects as would be helpful for rehabilitation of and for educating the prisoners.

(2) The officers of a prison shall ensure active participation of prisoners in attending such workshops and seminars.

Appointment of professionals, educators or counsellors.

58G. For the purposes of sections 58E and 58F, the State Government shall appoint adequate number of professionals, educators and counsellors in such manner as may be prescribed."

## STATEMENT OF OBJECTS AND REASONS

The provisions of the Prisons Act, 1894, are almost a century old, which are not only obsolete but also not in tune with the principles of the Constitution or the policies of the Government. There is a need to provide rules and regulations for the management of the prisons in the present context.

It is also essential to reform the environment of the prisons and to ensure humanitarian consideration of prisoners so as to ensure that prisons do not create hardened criminals. It is also essential to create an atmosphere to rehabilitate and socialize prisoners to enable them to re-enter the society.

The Bill seeks to achieve the above objectives by amending the Prisons Act, 1894 with a view to:—

- (a) prohibit making available means of communication to prisoners;
- (b) make special provisions with respect to pregnant prisoners;
- (c) ensure maintenance of hygiene in prison and surrounding areas;
- (d) establish separate prisons for different types of offenders;
- (e) ensure review and inspection of prisons at regular intervals;
- (f) prescribe measures to prevent mental and physical injuries among the prisoners;
- (g) provide skill training to inmates of prisons;
- (h) conduct workshops and seminars for prisoners; and
- (i) appoint professionals, educators and counsellors for the rehabilitation and welfare of prisoners.

NEW DELHI;  
February 11, 2016.

MULLAPPALLY RAMACHANDRAN

## FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the appointment of temporary workers for maintenance of hygiene in the jail premises and its precincts. Clause 8 provides for establishment of separate prisons for separate types of offenders. It also provides for providing skill training and appointment of professionals, educators or counsellors for conducting workshop or seminars in prisons. The expenditure relating to States shall be borne out of the consolidated Fund of State Governments concerned. However, the expenditure relating to Union territories shall be incurred from the Consolidated Fund of India. The Bill, if enacted, is likely to involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees two hundred and twenty crore is likely to be involved.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill provides for the appointment, in such manner, as may be prescribed by rules made under this Act, of temporary workers for maintenance of hygiene in the jail premises and its precincts by Jail authorities. Clause 8 provides for providing skill training and appointment of professionals, educators or counselors for conducting workshop or seminars in prisons by the State Government in such manner, as may be prescribed by rules made under this Act. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.



## BILL NO. 66 OF 2016

*A Bill to provide for more effective measures to prevent and protect women from 'witch-hunt' practices to eliminate their torture, oppression, humiliation and killing by providing punishment for such offences, relief and rehabilitation of women victims of such offences and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Prevention of Witch-Hunting Act, 2016. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "abettor or identifier" means any person who brands or identifies any woman as a witch;

(b) "Code" means the Code of Criminal Procedure, 1973;

2 of 1974.

(c) "court" means a court of Metropolitan Magistrate or Judicial Magistrate of the first class exercising jurisdiction in the area where offence is alleged to have taken place or of any other Judicial Magistrate of the first class or the Court of Sessions specified as a Special Court by sub-section (1) of section 11 of the Code;

(d) "Government" means the Central Government or the State Government, as the case may be;

(e) "*ojha*" means a person who claims that he has got power or knowledge to identify witches and to have a capacity to attain control over them or who uses *Jhad Phoonk*, either to cure or protect from evil spirit or who causes damage, suffering or harm for the purposes of healing any disease by giving *Tabij*, *Mantra* or any substance claiming to have the power to heal from witchcraft sufferings and includes persons known as *Guni*, *Shekha* or *Jan* or by any other name;

(f) "Police Station" includes police outposts;

(g) "spell" means a form of words used as magical charm or incantation used by *ojha*;

(h) "witch" means any woman who has been branded as witch by person or persons in belief that such women has the power to harm anyone or that she allegedly have such intention or having the belief that she has bad eyes or evil eyes or could do black magic or that she, by *Mantras* can harm people or society at large, in any manner;

(i) "witchcraft" means the supposed power of a person to harm the other by—

(a) occult or supernatural means secret use of *Tabij* or any water or water mixture pretending it to be sacred; or

(b) any other substance or things like spell, spirits or magic power with the purpose of causing harm, damage or sickness to other person or harm or damage to the properties;

(j) "witch-hunting" includes branding of a woman as witch, mostly after an '*ojha*' confirms that a woman is a witch the process of prosecution and execution of that woman, often involving mass hysteria and lynching; and

(k) "words and expressions" used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code, 1860 shall have the same meanings has assigned to them in the Code or Indian Penal Code.

2 of 1974.  
45 of 1860.

## CHAPTER II

### PUNISHMENT FOR OFFENCES

#### 3. Whoever,

(i) accuses or identifies or defames a woman, either by words or actions by claiming that she is a *Daain* or *Dayan* or *Dakan* or *Dakin* or *Chudail* or *Bhootni* or *Bhootdi* or *Chilavan* or *Opri* or *Ranndkadi* or *Tonahi* or *Tonaha* or *Banamati* or *Chetabadi* or *Chillangi* or *Hawa* or *Evil Eye* or *Halka* or *Daini* or by using of any other name or symbol suggesting her to be a witch; or

(ii) accuses a woman of performing witchcraft or any puja or use of mantra or tantra aimed at harming any person by supernatural means,

shall be punished with imprisonment for a term which shall not be less than one year but may extend upto three years and with fine which shall not be less than one thousand rupees but may extend upon five thousand rupees:

Provided that the Court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment for a term of less than one year.

Punishment  
for accusing or  
identifying a  
woman as  
witch.

4. (1) Whoever, labels a woman a witch and blames that woman for any misfortune, which may include natural disasters like droughts, floods or crop loss, that befalls village or any illness or death in the village shall be punished with imprisonment for a term which may extend upon three years and a fine which shall not be less than one thousand rupees but which may extend upto ten thousand rupees; and

(2) Whoever, assaults or uses criminal force or causes to assault or use criminal force against a woman, accusing her to be a witch, resulting into her death, shall be punished according to the provisions of section 302 of Indian Penal Code, 1860.

45 of 1860.

5. Whoever, intimidates a woman, calls her a witch and accuses her practicing witchcraft, to the extent that the woman is compelled to commit suicide, shall be punished with imprisonment for a term which shall not be less than three years but which may extend upto imprisonment for life and with fine which shall not be less than twenty-five thousand rupees but which may extend upto fifty thousand rupees:

Punishment for intimidating a woman for practicing witchcraft.

Provided that the court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment for a term of less than three years.

6. Whoever, on the pretext of labelling a woman of performing witchcraft or being witch, uses criminal force against that woman or instigates or provokes others in doing so with intent to harm or to displace her from the house, place or the property, lawfully occupied or owned by her or interferes with her rights over any land or premises or coerce her to leave the area of which she is a rightful resident or a visitor, shall be punished with imprisonment for a term which shall not be less than three years but which may extend upto five years and with fine which shall not be less than twenty thousand rupees but which may extend upto to fifty thousand rupees:

Punishment for use of criminal force against a woman and labelling of witch.

Provided that the court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment for a term of less than three years.

7. Whoever, on the pretext of labelling a woman of performing witchcraft or being witch, assaults or uses criminal force against that woman to remove or causes to remove clothes from her body and demonstrates and parades her naked or with such scanty clothes that fail to protect her modesty, shall be punished with imprisonment of a term which shall not be less than three years but which may extend upto to five years and with fine which shall not be less than twenty five thousand rupees but which may extend upto to fifty thousand:

Punishment for assault or criminal force against woman.

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than three years.

8. Whoever, on the pretext of labelling a woman of performing witchcraft or being witch,—

Punishment for torturous or humiliating acts on pretext of performing witchcraft.

(i) subjects that woman to any form of torture including acts of stoning, hanging, stabbing, dragging, public beatings, burns insertion of wooden or sharp objects into her private parts, burning of her hair, forced hair shavings, pulling of her teeth out, cutting of her nose or other body-parts, blackening of her face, whipping or branding; or

(ii) forces that woman to perform public acts of humiliation or eat human excrement or drink urine or drink or eat inedible or obnoxious substances or socially ostracize that woman or stigmatize her for life or prohibit her to participate in auspicious occasions or curtail her movements or employment,

shall be punished with imprisonment for a term which shall not be less than three yeas but which may extend upto five years and with fine which shall not be less than twenty five thousand rupees but which may extend upto fifty thousand rupees:

Provided that the court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment for a term of less than three years.

Punishment for person claiming to be an *ojha*.

**9.** Whoever, being '*ojha*', claiming to possess spiritual and/or magical powers, declares any woman as a witch and does any act of healing allegedly or purportedly to cure her or performs any ritual by doing any act of '*jhadphook*' or '*totka*' to free the woman from the evil spirit or entices a woman or any person on her behalf with a promise to bless the woman with a child or performs any ritual on behalf of any person with intention to harm the woman, and whoever promotes or helps organizing and performing of such rituals or associate oneself with such rituals, shall be punished with imprisonment for a term which shall not be less than one year but which may extend upto three years and with a fine of upto fifty thousand rupees:

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than one year.

Punishment for removal or disappearance of evidence.

**10.** Whoever, knowingly or having reasons to believe that an offence has been committed under this Act, causes removal or disappearance of any evidence of the commission of that offence with the intention of helping the offender to escape punishment, or with that intention to mislead the investigation or gives any information, regarding the offence, which he knows or believes to be false, shall, in addition to the punishment under section 182 of Indian Penal Code, 1860 be liable for punishment.

45 of 1860.

Attempt to commit offences.

**11.** Whoever attempts to commit any offence under this Act or does any act towards such commission shall be punishable in accordance with the provisions of the Indian Penal Code, 1860.

45 of 1860.

Abetment of offence.

**12.** A public servant, who wilfully refuses to register a case or neglects the investigation or tries to withhold facts and evidences with intention to minimize the gravity of the offence, shall be deemed to have abetted an offence and shall be liable to such punishment for abetting the offence as provided under this Act.

Punishment for Community Involvement.

**13.** Where community involvement is proved in causing any offence under this Act, every person of the community involved may be punished with fine which shall not be less than five hundred rupees but may extend upto three thousand rupees and whosoever fails to deposit the said fine shall undergo three months imprisonment excluding the punishment imposed upon him by a court for causing that offence.

### CHAPTER III

#### TRIAL OF OFFENCES

Offences to be cognizable, non-bailable and non-compoundable.

**14.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable, non-bailable and non-compoundable.

2 of 1974.

Imprisonment for non-payment of fine.

**15.** Any person, who wilfully or otherwise, fails to pay the fine ordered by a court, shall be liable to undergo imprisonment as provided under section 64 of Indian Penal Code, 1860.

45 of 1860.

Provision of compensation to the victim.

**16.** (1) The fine realized as punishment for an offence under this Act shall be paid to the victim as compensation.

(2) The compensation paid under sub-section (1) shall not be compounded with any other compensation or financial assistance which the Government may decide to pay as immediate relief to the victim or the rehabilitation grant payable under section 24.

Appeal.

**17.** Subject to the provisions of the Code, the aggrieved person shall be eligible to file an appeal to the next higher court within ninety days of from the date on which the court concerned has passed the order:

Provided that the court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the stipulated period.

#### CHAPTER IV

##### MEASURES FOR PREVENTION AND PROTECTION OF WOMEN

**18.** (1) When a police officer receives any information or a report that a witch-hunt is likely to be committed or there are reasonable grounds to suspect that a witch-hunt has been committed against a woman, he shall forthwith proceed to the place and shall take all suitable measures to prevent the witch-hunt and to provide protection to the woman including getting her admitted to a recognized protective refuge or shelter home, in case the woman has no safe shelter.

Measures to prevent and protect women from witch-hunt.

(2) The police officer shall immediately remove the person and the objects expected to harm the woman and shall verbally or in writing warn the person or persons accused of intending or attempting a witch-hunt against the woman to leave the place immediately and abstain from inflicting any harm upon the woman.

(3) The police officer may arrest the person or persons and take action in accordance with section 151 of the Code and the person so arrested shall be produced before the executive Magistrate of the area who shall proceed under sections 107 and 116 of the Code.

(4) Whenever an offence under this Act is reported to a police officer, in whose jurisdiction the offence is committed, the officer concerned shall record the First Information Report and shall take suitable action as per the law.

(5) Whenever such incident is reported to a police officer which has occurred outside his jurisdiction, the officer shall immediately inform the police officer in whose jurisdiction the offence falls and send a copy of the written complaint, if available, for further necessary action.

**19.** The Government shall,—

Duties of the Government.

(i) draft appropriate guidelines for the implementation of the provisions of this Act;

(ii) sensitize and train police officers regarding the issue of witch-hunting;

(iii) ensure confidentiality during testimony of victim as well as witnesses;

(iv) ensure proper monitoring and follow up of reported incidences;

(v) provide relief and compensation for victims of witch-hunting;

(vi) put in place rehabilitation mechanisms and schemes for victims of witch-hunting;

(vii) provide counselling services to victims of witch-hunting;

(viii) promote education and awareness about the evil of witch-hunting and include the issue of witch-hunting in school curricula;

(ix) launch public awareness schemes to inform communities of the provisions of this Act;

(x) launch campaigns against superstition and witch-hunting practices and organize padyatras and public awareness meetings with the participation of voluntary organizations, schools, and others especially in regions where the menace of witch-hunting is most rampant; and

(xi) organise women's groups at village level and draw up creative plans in consultation with such groups to enhance the self-confidence and economic independence of vulnerable women in such areas.

Obligation to report about the commission of offence.

**20.** (1) Every employee of Government shall assist the police in the execution of the provisions of this Act.

(2) All village officers or Panchayat people and such other officers as may be specified by the Collector or the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that witch-hunt is about to be, or has been, committed in the area shall forthwith report such fact to the nearest police station.

(3) Whoever contravenes the provision of sub-section (1) or sub-section (2) shall be punished with imprisonment of either description for a term which may extend upto two years and shall also be liable to fine.

## CHAPTER V

### SPECIAL PROVISIONS

Rescue of victim.

**21.** (1) Where a Magistrate has reasons to believe from information received from the police or from any other person, that any woman has been victimized in the name of witchcraft, he may direct a police officer not below the rank of a sub-inspector to enter such place, and to remove from there such women and produce her before him.

(2) The police officer, after removing the woman shall forthwith produce her before the Magistrate.

Free medical assistance to the victims.

**22.** The Government may provide free medical assistance including medicines and other supportive system to victims of witch-hunt.

Rehabilitation grant to the victims.

**23.** The Government shall provide such rehabilitation grant to be paid to the victim of offences under this act in such manner as may be prescribed by rules made by the Central Government under this Act.

Free legal aid to the aggrieved women.

**24.** The aggrieved women shall have right to free legal aid under the Legal Services Authorities Act, 1987.

39 of 1987.

## CHAPTER VI

### MISCELLANEOUS

Non-application of section 360 of the Code or the Probation of Offenders Act to persons guilty of an offence.

**25.** Section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person of the age of twenty-one years and above, who is found guilty of having committed an offence under this Act.

20 of 1958.

Non-application of section 438 of the Code to persons committing an offence.

**26.** Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on accusation having committed an offence under this Act.

Application of certain provisions of the Indian Penal Code.

**27.** Subject to other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter V-A, section 149 and Chapter XXIII of the Indian Penal Code shall, so far as may be, apply for the purposes of this Act as they apply for the purpose of the Indian Penal Code, 1860.

45 of 1860.

Act to override other laws.

**28.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time custom or usage or any instrument having effect.

**29.** No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of the Government or any other person for anything which is in good faith done or intended to be done under this Act.

Protection of  
action taken  
in good faith.

**30. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

The practice of 'witch-hunting' constitutes gender-based discrimination as it affects women disproportionately. Witch-hunting is a gross violation of women's human rights under Part III of the Constitution *i.e.* the Right to Equality under article 14, the prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth under article 15, the Right to Protection of life and personal liberty under article 21 which includes the right to life with dignity and prohibition of torture. Right of equality of opportunity in matters of public employment under article 16, the abolition of untouchability under article 17 and the Protection of the interests of minorities under article 29 of the Constitution. Witch-hunting also violates norms of international human rights law including those in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and Convention on Elimination of All Forms of Discrimination Against Women, which are binding upon India.

Presently, section 323 of the Indian Penal Code, 1860 is used to deal with most witch-hunt cases. The effect of this is that the persistent harassment of a woman, violence, social ostracization and deprivation of rights are prosecuted in the same way as a common assault. In addition certain provisions of the Indian Penal Code, 1860 have been typically used to book offenders in cases relating to witch-hunting such as section 382 'theft after preparation made for causing death, hurt or restraint in order to commit theft, sections 339—48 'wrongful restraint and confinement', sections 320—22, 'Causing grievous hurt', sections 359—69, 'Kidnapping and abduction', sections 375—376, 'Rape', sections 499—501, 'Defamation' and section 302, 'Murder'.

The use of the aforesaid sections in the absence of a stringent law to deal with the problem of witch-hunting has resulted in an *ad hoc*, un-coordinated and often insensitive approach to tackle the social evil of witch-hunting. A national law on the other hand would acknowledge, understand and address the specific harms and specific wrong done to women who are labeled as witches and subjected to oppression. There is a need is to prevent, prohibit and prosecute witch-hunting as a specific manifestation of ongoing discrimination and violence against women across India. The co-ordinated and coherent approach of a national law would, therefore, better redress the devastating impact that witch-hunting has on the lives of targeted women across India. It would also better mobilize civil society and law enforcement agencies to fulfil their obligations.

In many States including the States of Jharkhand, Haryana, Uttar Pradesh, Chhattisgarh, Orissa, West Bengal, Madhya Pradesh, Rajasthan, Andhra Pradesh, Gujarat, Maharashtra, Assam, Bihar and Meghalaya there are certain areas where the practice of witch-hunting is prevalent even today. In some of these States, laws to tackle witch-hunting have been enacted. However, these laws contain a range of different provisions at different level and resulting in the pressing need for a coherent national legislation.

Witch-hunting is the practice of naming an individual particularly a woman a witch and then causing her harm to such an extent layout emagination. Women are often singled out in the name of witch-hunting by an individual or a group in the community or the community as a whole for the purpose of holding such women responsible for causing ailment or misfortune to the society. The victims of witch-hunts are usually dalit, adivasi, or indigenous tribal women often living in poverty. Victims are also usually but not always elderly widows, single women or unmarried women. The practice of witch-hunting is most prevalent in rural areas of lower socio-economic development where there is no access to education, medical care, sanitation or legal services. This evil practice, therefore, affects those who are already most vulnerable section in society and who already suffer from multiple forms of disadvantage. The stigma of being labeled a witch and the resulting harm being an additional burden that those already marginalized individuals have to bear.



There have been instances where such women are branded as witches beaten, burned, paraded naked, tonsured, forced to eat human excrement, raped, teeth and fingernails are pulled out. There have also been instances of mutilation of women's body parts and organs including genitalia. Women are tortured to death or murdered.

Branding women as 'witches' cause them harm is used to keep women subordinate in the social hierarchy. It is often used to control and oppress women who are deemed to be 'strong', 'outspoken' or have refused to submit to coercion. For example, women may be branded witches if they have sought to protect their bodily integrity or sexual autonomy and refused sexual or romantic advances of a neighbour. Women are branded witches in order to deprive them of their socio-economic or property rights. Women are branded as witches to prevent them from participating in the public or political life of their communities. For example, Lata Sahu, a dalit woman in Raipur, in the State of Madhya Pradesh, contested the polls against the wishes of landlord or higher castes. She was condemned as a witch, stripped and beaten.

Women who are accused of witchcraft in India, do not seek any legal or police assistance often for fear of further violence and reprisals in the absence of adequate protection by the law enforcement agencies. In many cases, the police fails to lodge First Information Report. Even if First Information Report is lodged and an arrest is made, the accused are set free due to lack of evidence. Due to lack of adequate rehabilitation, relief or compensation to women who have been identified as witches return to their villages and they often face more hostility and anger from their communities with no socio-economic or property rights. Therefore, it is necessary to raise awareness among public about the problem as well as sensitise civil society and law enforcement agencies to check growing incidents of witch-hunting and provide adequate rehabilitation and welfare of victims of 'witch-hunting'.

In summary, witch-hunting is preventing women from participating in and contributing to society and fulfilling their responsibility.

The proposed Bill, therefore, seeks to provide for more effective measures to protect women from 'witch-hunt' and prevent the act of torture, oppression, humiliation and killing by providing punishment for such offences, relief and rehabilitation of women victims of such offences.

Hence this Bill.

NEW DELHI;  
*February 11, 2016.*

RAGHAV LAKHANPAL

## FINANCIAL MEMORANDUM

Clause 19 of the Bill provides that the Government shall provide compensation, rehabilitation mechanism and schemes, counseling services and other welfare measures for the victims of witch-hunting. Clause 22 provides for free medical assistance to victim of witch-hunt. Clause 23 provides for payment of rehabilitation grant to the victims of offences under this Act. Clause 24 provides for right to free legal aid to the aggrieved women. The expenditure relating to States shall be borne out of the Consolidated Funds of State Government concerned. The expenditure relating to Union Territory shall be incurred from the Consolidated Fund of India.

The Bill, therefore, if enacted would involve expenditure from Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty crore would be incurred per annum from Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to provide payment of rehabilitation grant to the victims of offences under this Act in such manner as may be prescribed by rules made by Central Government. Clause 30 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 37 OF 2016

*A Bill to provide for faster tracking and reuniting the children, who go missing due to abduction, kidnapping, luring or runaway from their homes, with their parent; establishment of Special Cells in Police establishments with specifically trained personnel to trace missing children; immediate registration of F.I.R. for flashing photograph and details of missing children in television, newspapers and social media so as to put in place proper mechanism to trace missing children and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Missing Children (Faster Tracking and Reuniting) Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "appropriate Government" means, in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means any human being who is below the age of eighteen years; and

(c) "prescribed" means prescribed by rules made under

Appropriate Government to constitute Special Cells for missing children.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall constitute Special Cell in the Ministry or Department, as the case may be, dealing with children to exclusively deal with missing children and put in place a proper mechanism to trace missing children.

(2) The appropriate Government shall also set up Special Cells, as per the need, in its Police establishment with specifically trained personnel from the National Police Academy or any such other organization specialized in imparting training to personnel of Police or Para military forces, as the case may be, for tracking the missing children.

Special provisions for missing children.

4. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) it shall be mandatory for Station House Officer of every police station to register First Information Report (F.I.R.) immediately, on being informed, either in writing or verbally by anyone, regarding a missing child and the F.I.R. shall be specific with missing and abducted or kidnapped child and shall pass on the F.I.R. to Special Cells constituted under section 3 in such manner as may be prescribed.

(b) the Special Cell of Police, shall, at the earliest opportunity flash the Photograph and other details of the missing child in all the Television networks and shall also publish in the newspapers and social media in such manner and with such details, as may be prescribed;

(c) the Special Cell of Police shall start its probe with immediate effect to trace the missing child so as to reunite him with his near and dear ones; and

(d) non-registration or any wilful delay in registration of F.I.R. regarding a missing child shall be a criminal offence under this Act and the in-charge of the Police Station shall be deemed to have committed the offence.

(2) The National Police Academy or any other organization referred to in sub-section (2) of section 3 shall formulate training module for the Police personnel meant for Special Cells and if required the assistance of academic Centres of Universities or Institutes shall be taken for the purpose of tracking of missing children.

(3) The Special Cell while adopting its methodology of investigation in cases of missing children may also identify begging spots, take mobile phone numbers of beggars and put them on surveillance particularly in areas where large number of children have gone missing, identify the children who are begging and investigate as to whether they are controlled by any group or leader and whether they resemble missing children, probe the known clinics where human organs are transplanted, in such manner as may be prescribed.

(4) The missing children rescued by the Special Cell of the Police shall be reunited with their parents or guardians, as the case may be, at the earliest opportunity.

Power to search etc.

5. Any Police officer of the Special Cell who is investigating case or cases of missing children shall have the powers, with the assistance, if any, as he may deem fit, to inspect any place, at any reasonable time, which he considers necessary for carrying out the purposes of this Act.

- 6.** The offence committed under clause (d) of sub-section (1) of this Act shall be punishable with imprisonment for a term which may extend upto one year and also with fine which may extend upto one lakh rupees. Penalty.
- 7.** The appropriate Government shall formulate rehabilitation and such other welfare measures for the children covered under this Act who could not be reunited with their families or guardians. Welfare measures.
- 8.** The Central Government shall after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act. Central Government to provide funds.
- 9.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Act to have overriding effect.
- 10.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act. Act not in derogation of any other law.
- 11.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

It is very unfortunate and sorry state of affairs that a very large number of children go missing every day in every nook and corner of the country and it is more horrifying that the National Capital tops the list where 20 children go missing every day and most of them remain untraceable forcing their parents for endless wait for their return and reunion with them. It is more shocking that most of these missing children belong to poor families and when their parents go to Police Station to lodge an F.I.R. they are welcomed by indifferent and heartless Police personnel who not only refuse to lodge F.I.R. but also insult the hapless parents and shoot them away instead of making efforts to trace the missing child. This negligent nonchalance is one major reason for the increasing number of missing children across the Country. In fact, in the present Police scheme of things, rescue of the missing child is of lesser moment.

The very large number of missing children also indicate presence of trafficking mafias in the country who lure and abduct, the children and force them into begging, stealing, pick-pocketing and other crimes after making them drug addicts. The girl child is pushed into prostitution. It is also apprehended that the missing children might being used in illegal organ transplantations.

The Supreme Court of India has taken a serious view over the missing children and has also given directive to the Government. Though of late Delhi Police have made move in this regard and Ministry of Woman and Child Development has launched a webportal but it is not sufficient. The Bill propose to set up special cells in the Ministry or Department of the Government and in the Police establishment exclusively to deal with missing children. The Police personnel must get appropriate training for this purpose. Non filing of F.I.R. is proposed to be made a criminal offence with penal provision. The task of rescue is very critical for the missing children so that they are reunited with their near and dear ones.

Hence this Bill.

NEW DELHI;

MANOJ RAJORIA

*February 11, 2016.*

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of special cells by appropriate Governments for missing children. Clause 7 of the Bill provides for the welfare measures for the children covered under this Bill. Clause 8 makes it mandatory for the Central Government to provide funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupee five thousand crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO.38 OF 2016

*A Bill to provide for compulsory imparting of moral education in educational institutions upto secondary level in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Compulsory Imparting of Moral Education in Educational Institutions Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;



(b) “Council” means the Advisory Council constituted under section 7;

(c) “educational institution” means any school imparting education upto secondary level;

(d) “moral education” means education based on teaching of good principles and values cherished for years such as regard and respect for elders, parents, teachers and guardians and setting reasonable standards of virtues and reinforcing discipline among students with a view to enable them to distinguish between right and wrong; and

(e) “prescribed” means prescribed by rules made under this Act.

**3.** From such date as the Central Government may, by notification in the Official Gazette, specify, moral education shall be compulsorily imparted in all educational institutions upto secondary level.

Compulsory moral education in educational institutions.

**4.** The appropriate Government shall, immediately after issuance of notification under section 3, issue directions for compulsory imparting of moral education in all educational institutions, within its jurisdiction.

Appropriate Government to issue directions for compulsorily imparting moral education.

**5.** The appropriate Government shall derecognize an educational institution, which does not comply with the provisions of section 3:

Derecognition of educational institutions.

Provided that any such derecognition shall be done only after giving such educational institutions a reasonable opportunity of being heard.

**6.** Subject to such rules, as may be prescribed, the appropriate Government shall cause to appoint such number of teachers with such qualifications as may be specified, for imparting moral education to students upto secondary level.

Appointment of teachers for imparting moral education.

**7. (1)** The Central Government shall, by notification in the Official Gazette, establish an Advisory Council in each district in such manner as may be prescribed.

Establishment and functions of Advisory Council.

(2) The Council shall consist of such number of persons, as may be prescribed, which shall include persons having specialized knowledge of moral principles, values and experience of teaching moral education.

(3) The Council shall:—

(a) take steps to encourage media, non-Governmental organizations and other agencies in providing moral education in educational institutions; and

(b) coordinate with the appropriate Government and educational institutions with a view to ensure effective implementation of the provisions of the Act.

**8.** Notwithstanding anything contained in this Act, the provisions of this Act, shall apply to a minority educational institution only if the management of such institution conveys to the appropriate Government their willingness to impart moral education in their institution.

Act to apply to minority educational institutions in certain situation.

**9.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purpose of this Act.

Central Government to provide funds.

**10.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force.

Overriding effect of the Act.

Power to  
make rules.

**11.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

In the modern age, there has been a sharp decline in the values which were cherished and practiced from the time immemorial in Indian society. There was a time when moral education used to be an essential component of the education system at *gurukuls* and such other centres. As a result, pupils grew stronger both intellectually and spiritually and influenced society as well as the State by their significant contributions. However, with the passage of time, we are losing our great values with the result that we tend to become hypocrite and it is reflected in our day-to-day brawls between teachers and students, disrespect to elders and cases of abandonment of old-aged parents by their own offsprings. This trend must be checked urgently.

A child learns from whatever he observes around and, therefore, society, parents and the State owe a duty to create an atmosphere in which children may have all round development. Moral education has become need of the day. Today, there is no dearth of the news items covering incidents of rape of a daughter by her own father, molestation and eve teasing of minor girls, killing of old parents by their own sons, threatening of teachers by their students, etc. It is commonly said that the children are the future of the nation and custodian of moral value of society. So, it becomes all the more important to inculcate in children moral values and ideals right from the early stage of childhood. Preparing a conducive atmosphere to learn moral values will have salutary effect on minds of school going children and when they will grow mature they can easily distinguish between the right and the wrong. It is felt that voluntary action to promote moral values will not have the desired impact unless moral education is imparted compulsorily in all the educational institutions.

Hence this Bill.

NEW DELHI;  
February 11, 2016.

MANOJ RAJORIA

#### FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for appointment of teachers for imparting moral education. Clause 7 provides for establishment of Advisory Councils, which shall include persons having special knowledge of moral principles, values and experience of teaching moral education. Clause 9 provides that Central Government shall provide funds for the purposes of teachers and infrastructure. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five hundred crore will be required for the purpose.

A non-recurring expenditure to the tune of rupees five hundred crore will also be required.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 39 OF 2016

*A Bill to provide for the rehabilitation and welfare measures of destitute children and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Destitute Children (Rehabilitation and Welfare) Act, 2016.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in all other cases, the Central Government;

(b) "child" means a boy or a girl who is below the age of eighteen years;

(c) "children home" means an institution or home established or certified as such by the appropriate Government for the purposes of this Act;

(d) "destitute child" means a child who is an orphan or neglected or has been abandoned or is a vagabond and who lives on pavement or in a hutment or slum or railway platform or bus stop or such other place; and

(e) "prescribed" means prescribed by rules made under this Act.

National  
policy for  
destitute  
children.

**3.** The Central Government shall, as soon as may be, formulate a National Policy for the rehabilitation and welfare of destitute children so as to secure them all rights of childhood and make them responsible citizens.

Rights of  
destitute  
children.

**4.** Every destitute child shall have the right to—

(i) adequate livelihood and protection against exploitation;

(ii) free and compulsory education and vocational training; and

(iii) free healthcare.

Establishment  
of Destitute  
Children  
Welfare Fund.

**5.** (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a Fund to be known as the Destitute Children Welfare Fund for carrying out the purposes of this Act.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) Such other sums as may be received by way of donation, contribution or assistance from individuals, organizations or any other establishment shall also be credited to the Fund.

(4) The Fund shall be used for the welfare of the destitute children in such manner as may be prescribed.

Establishment  
of Children  
homes.

**6.** (1) The appropriate Government shall establish or cause to be established such number of children homes as it may deem necessary for the purposes of this Act.

(2) The children homes established under sub-section (1) shall provide free boarding and lodging and such other facilities to the destitute children as may be prescribed.

Welfare  
measures for  
the destitute  
children.

**7.** The appropriate Government shall—

(a) conduct survey of destitute children in their area and maintain a district-wise register of all destitute children;

(b) open sufficient number of schools and colleges for imparting education to the destitute children and provide books, writing materials, clothes, uniforms and other stationery articles free of cost;

(c) provide healthcare facilities free of cost to all destitute children;

(d) provide vocational training and gainful employment to destitute children;

(e) free meals including nutritious food and lodging facilities; and

(f) take such other measures as may be necessary for the rehabilitation and welfare of destitute children.

**8.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments for carrying out the purposes of this Act.

Central Government to provide requisite funds.

**9.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**10.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not in derogation of any other law.

**11.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

India is a Welfare State and thus it is the duty of the State to ensure that every citizen is able to live a life of dignity and respect. Children are the future of the country. It is, therefore, duty of the State to see that orphan, destitute, homeless and street children are protected against negligence, cruelty and exploitation. Unfortunately, in our country there are millions of orphan-mostly homeless, abandoned, run away, vagabond and destitute street children. They should be provided with quality education, nutrition, healthcare and conducive atmosphere to enable them to grow up as responsible citizens. The Bill seeks to provide for rehabilitation and welfare measures on the part of the State for these neglected children which will not only uplift their conditions but it will also help in creating a better society and strong Nation.

Hence this Bill.

NEW DELHI;  
*February 11, 2016.*

SUKHBIR SINGH JAUNAPURIA



#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for certain rights to be provided for destitute children. Clause 5 provides for the establishment of a Destitute Children Welfare Fund by the Central Government. Clause 6 provides for establishment of children homes for the destitute children. Clause 7 provides for welfare measures for the destitute children to be undertaken by the appropriate Government. Clause 8 provides that Central Government shall provide requisite funds to the State Governments for carrying out the purposes of this Act. Although, the expenditure relating to States shall be borne out of the Consolidated Funds of the respective States, the Central Government shall bear the expenditure in providing assistance to the State Governments for carrying out the purposes of the Bill and for implementing the provisions of the Bill in the Union territories. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees ten thousand crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

## BILL NO. 36 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of  
the Eighth  
Schedule.

**2.** In the Eighth Schedule to the Constitution,—

(a) the existing entries from 4 to 9 shall be re-numbered as entries 5 to 10, respectively and before entry 5 as so renumbered, the following entry shall be inserted, namely:—

“4. Bundeli.”; and

(b) the existing entries from 10 to 22 shall be renumbered as entries 12 to 24 and before entry 12 as so renumbered, the following entry shall be inserted, namely:—

“11. Kumaoni.”.

## STATEMENT OF OBJECTS AND REASONS

Bundeli language has its own glorious history. The very mention of Bundeli emerges a picture of such culture and region that does not show its reluctance to even sacrifice one's life. The '*Alha-Udal*' drama of Bundelkhand region is world famous. Bundeli language has been in use for official purposes for more than one hundred years and as per 2001 census nearly three crore people belonging to various States use this language. Bundeli language is the fulcrum of identity and contact for these people.

Besides Bundeli, Kumaoni language too has its illustrious background. Kumaoni was official language of Chandel rulers of Uttarakhand and even today it continued to be local language in the region. In various States of the country, nearly 2.5 crore people use Kumaoni in their day to day interaction. Kumaoni literature is fairly enriched and is frequently used in public literature as well as in conventions.

Both the languages, that are historically and traditionally enriched ones, are being subjected to gross neglect these days. Both of these languages run the risk of losing their existence and call for assistance on the part of the Government. It is unavoidable and desirable both. On having been included in the Eighth Schedule, the usage and popularity of these languages shall spread all across.

Neither of these two languages has so far been in the scheme of examination being conducted by the Union Public Service Commission. As a result students proficient in these languages cannot use them in the examination. By including these two languages in the Eighth Schedule, avenues of employment shall also be generated. Therefore, these two languages call for inclusion in the Eighth Schedule to the Constitution with immediate effect in order that they may receive their due recognition.

Hence this Bill.

NEW DELHI;  
February 9, 2016.

KUNWAR PUSHPENDRA SINGH CHANDEL

## BILL NO. 40 OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title  
and comm-  
encement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 1.

**2.** In article 1 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(1) India, that is Bharat Varsha, shall be a Union of States.”.

## STATEMENT OF OBJECTS AND REASONS

'Bharat Varsha' is the identity of our country. In the legends and the history, the word 'Bharat Varsha' has been extensively used, which is clearly evident from the *Sloka* enshrined in the *Vishnu Puran*—"TATASCHA BHARATAM VARSHMETALLOKESHUGIYATE BHARTAY YATAH PITRA DATTAM PRATISHTHITA VANAM" meaning that this country has been known as Bharat Varsha since King Bharat left for the jungle for penance by handing over the affairs of the kingdom to his sons. Everywhere one can find the mention of Bharat Varsha. The nomenclature of our country as Bharat Varsha owe to the King Bharat. The term Bharat Varsha infuses a sense of courage and new energy and makes us feel of having a cultural entity. Therefore, the expression 'India, that is Bharat Varsha' shall be more appropriate in article 1 of the Constitution.

Hence this Bill.

NEW DELHI;  
February 9, 2016.

KUNWAR PUSHPENDRA SINGH CHANDEL

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ANOOP MISHRA  
*Secretary General*